

From: Sharlene Wellard [mailto:SWellard@meridianlawyers.com.au]
Sent: Wednesday, 1 July 2015 5:22 PM
To: AMOD
Cc: John Sweetman; Stephen Ferguson (ceo@aha.org.au)
Subject: AM2014/305 - Penalty Rates

Dear Award Mod Team

Please find attached, filed on behalf of the AHA (using the numbering adopted in earlier emails), the following affidavits:

- 46. Affidavit of Michael Karney
- 47. Affidavit of Graham Annovazzi

We also attach:

- 43. Affidavit of Michael Burke (this replaces the unsigned version filed recently)

We anticipate filing four more affidavits – however those witnesses are currently on leave and they may not be filed until next week or later.

An outline of submissions will be filed tomorrow.

Kind regards
Sharlene

Sharlene Wellard | Principal



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IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Albert Hakfoort, Chief Executive Officer of the hotels comprising the Hakfoort Group say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would have prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

1. I am the Chief Executive Officer of the Hakfoort Group which encompasses a network of hotels in Queensland including:
 - a. Burke & Wills Hotel located at 554 Ruthven Street, Toowoomba 4350;
 - b. Gowrie Road Hotel located 208 Bridge Street, Toowoomba 4350;
 - c. Newtown Hotel 64-72 Anzac Avenue, Toowoomba 4350;
 - d. Stock Hotel located at 162 Anzac Avenue, Toowoomba;
 - e. Isa Hotel located at 11 Miles Street, Mount Isa 4825;
 - f. Redearth Hotel Corner Rodeo Drive & West Street, Mount Isa 4825;
 - g. Redbrick Hotel 83 Annerley Road, Woolloongabba; and
 - h. Central Lane Hotel in Gladstone 35 Yarroon Street, Gladstone 4680.
2. The Hakfoort Group is located at 80 Annerley Road, Woolloongabba in Queensland.
3. The Hakfoort Group employs approximately 200 people. The greatest portion of its employees are located at the Isa Hotel, with approximately 100 employees and the lowest portion of its employees are located at Gowrie Hotel, with approximately 15 employees. These figure are subject to change depending on whether the Hakfoort Group is trading at a low or high season.
4. The composition of my staff is a mix of casual or full time employees and the percentage split between the two is approximately 40% casual and 60% full time employees with only 2 part time employees. All and any employees who are in a position of authority, including the managers and supervisors, receive a salary.

5. I have a large number of casual staff who work on weekends because it suits them. Many of my casual staff members are university students. The Burke and Wills Hotel in Toowoomba is situated near the University of Southern Queensland Toowoomba Campus (USQTC) and employs university students who wish to work on evenings during the week, weekends and public holidays. I would like to be able to roster them to work on Sundays and public holidays. Unfortunately, due to the cost of penalty rates I cannot afford to do so. To keep my wage costs down at this establishment and my other hotels, I have salaried employees rostered on to work on Sundays and public holidays in all operational areas and low numbers of casual staff to fill in any gaps.
6. I have also had to close areas of my business on Sundays and public holidays because of penalty rates. The restaurant area of Burke and Wills Hotel in Toowoomba is closed on Sundays and public holidays to minimise costs.
7. I have also had to reduce services and trading hours on Sundays and public holidays due to penalty rates. I would prefer to offer these services however it is not economically possible.
8. I have reduced the hours of the daily breakfast service at the Conservatory Restaurant (6am – 10am) and the dinner service at Albert's Restaurant on weekends (6pm – 10pm), which are both located within the Burkes & Wills Hotel, to reduce wage costs. I employ both salaried and casual employees in the restaurant area during these service hours. However, the penalty rates on these days make it more attractive to have salaried staff work on these days.
9. The hotels with accommodation have also been affected by high penalty rates. The hotels with accommodation are the Burke and Wills Hotel in Toowoomba (92 rooms), the Redearth in Mount Isa (30 rooms) and Isa Hotel in Mount Isa (40 rooms) housekeeping at these hotels is run on skeleton staff over the weekends. I avoid having these rooms cleaned on Sundays or public holidays unless it is necessary due to the high cost as a result of penalty rates. To keep my costs low, I only have the rooms that are needed cleaned or refreshed on these days and have the other rooms cleaned during the week. On Sundays and public holidays, the only services provided at these hotels are the delivery of breakfast and the refreshing of rooms.
10. I would like to increase the service offerings of my establishments but the return on investment across my hotels is too low due to the high penalty rates I have to pay to staff my hotels. I would not have been able to expand the other areas of my business, such as accommodation, if it were not for the contribution that gaming machines make in my establishments.
11. The staff wages I have to pay on Sundays and public holidays due to the penalty rates have restricted the additional services that could be provided in the restaurants, the detached and drive-thru bottle shops and accommodation in my hotels. I would like to open certain cocktail bars for 2 extra hours each day of the week but the penalty rates do not make it worthwhile, especially on public holidays. I would also like to offer childcare facilities at my hotels to enable my patrons to truly enjoy their time at my hotel but have not had the finances to explore this due to the cost of penalty rates.

12. I also would like to offer in-house laundry services at my hotels for the accommodation guests. However, the high penalty rates on Sundays and public holidays have resulted in my contracting this service out when I would rather employ more staff to do this within the hotels that offer accommodation.
13. I also would like to extend the hours in the detached and drive-thru bottle shops at my hotels during the week and on Sundays and public holidays. The Newtown Hotel and Gowrie Road Hotel in Toowoomba have detached and drive-thru bottle shops, the Red Earth Hotel and Stock Hotel in Toowoomba have drive-thru bottle shops and the Isa Hotel in Mount Isa has a large outdoor detached bottle shop. I want to extend the hours at these bottle shops as it would allow me to offer more hours to staff members. However, the penalty rates on Sundays and public holidays has prevented me from being able to extend the hours of these bottle shops and from employing more staff more regularly.

AHA Penalty Rates Proposal

14. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
15. If the AHA's proposal was accepted, it would ultimately benefit the employees, who rely upon the Hotel to receive a secure and adequate income, and the community, who rely upon the full provision of services in order to encourage socially interaction.
16. Specifically, if the AHA's proposal was accepted, it would allow me to roster more staff on Sundays and public holidays and therefore offer more services to patrons including full dining services on Sundays and public holiday, offer full cleaning services of all accommodation facilities on Sundays and public holidays and extend trading hours.

#SWORN #AFFIRMED at

Signature of deponent



Name of witness

Address of witness

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

1 #I saw the face of the deponent.

#I have confirmed the deponent's identity using the following identification document:

QLD DRIVERS LICENCE # 037 336 368
Identification document relied on (may be original or certified copy)¹

Signature of witness



¹ "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Andrew Bullock, Chief Executive Officer of 1834 Hotels say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

1834 Hotels

3. I am the Chief Executive Officer of 1834 Hotels. 1834 Hotels is a network of individually owned hotels, motels and resorts managed by 1834 Hospitality.
4. I have over 15 years of business management experience in the tourism sector managing hotels, motels and resorts.
5. I am a Non-Executive Director at the South Australian Tourism Commission.
6. I am a Council Member of the Australian Hotels Association South Australia.
7. 1834 Hotels manages the operation and marketing of 12 hotels, motels and resorts located throughout South Australia and the Northern Territory with that portfolio growing and post 1st July & will include 4 additional venues in the Riverland and an additional 3 x accommodation hotels in Adelaide. The current portfolio includes:
 - a. **Adelaide Meridien Hotel & Apartments** – a 4 star hotel in North Adelaide with 94 room accommodation, café, bar and conference/function facilities;
 - b. **Adelaide Royal Coach** – a 4 star motel in Kent Town which offers 49 room accommodation, restaurant, bar, conference/function facilities and wedding reception venue;
 - c. **Apartments on George** – located on George Street, Adelaide, six apartments which are 4 star standard as well as a 2 bedroom heritage apartment;
 - d. **McCracken Country Club** – a 4 star 63 resort room and apartment accommodation in Victor Harbor with a golf course, day spa, health club, 2 restaurants, 2 bars, gaming room, bottle shop and convention centre which has conference, wedding and function facilities;


PETER PEDLER
COMMISSIONER FOR TAKING AFFIDAVITS
IN THE SUPREME COURT OF SOUTH AUSTRALIA



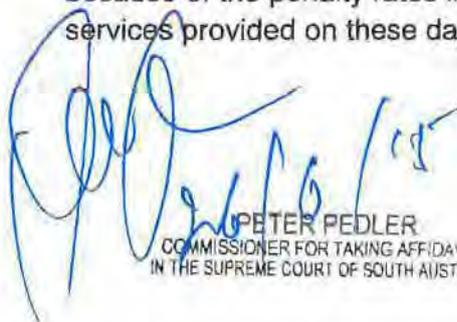
- e. **Clare Country Club** – a 4 star resort located in the Clare Valley region which has 64 resort room and apartment accommodation with restaurant and bar and a convention centre with conference, function and wedding facilities;
- f. **John Pirie Motor Inn** – 3.5 star motel with 42 room accommodation in Port Pirie with restaurant, bar and conference/function facilities;
- g. **Naracoorte Hotel** – a facility with 14 motel style accommodation rooms and 15 upstairs backpacker style rooms with shared bathroom facilities, bar, bistro dining, gaming room, bottle shop and function rooms;
- h. **RSL Alice Springs** – RSL Club with bar, bistro dining, gaming room, function rooms and entertainment venue;
- i. **RSL Blackwood** – RSL Club with bar, bistro dining, function rooms, entertainment venue specialising in local community functions;
- j. **Aurora Alice Springs** – a 4 star hotel with 108 room accommodation in Alice Springs with café, bar and conference/function facilities;
- k. **Aurora Ozone Hotel** – a 4 stay 77 room and apartment accommodation in Kingscote Kangaroo Island with health club, restaurants, bars, gaming room, bottle shop and convention centre with conference, wedding and function facilities; and
- l. **Avoca Club Ltd** – large metropolitan hotel located in South Road Clarence Gardens, 33 gaming machines, drive thru Thirsty Camel bottle shop, restaurant, multiple bars and function rooms.

Staff

- 8. Given the size of the company, there is a diverse range of employees.
- 9. We employ a number of university students that work as casuals whilst studying. For these staff members, evenings, Sundays and public holidays are excellent times to work to fit in with their studies.
- 10. Many staff members find working on weekends is extremely useful to fit around their commitments.
- 11. By being able to work on weekends and public holidays, some staff members are able to save on child care costs given other family members are available during these times to assist with child minding.

Penalty Rates

- 12. Due to the increased cost of having staff work on Sundays and public holidays because of the penalty rates imposed, we have reduced the trading hours and services provided on these days.

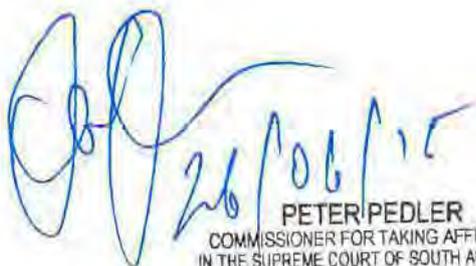

 PETER PEDLER
 COMMISSIONER FOR TAKING AFFIDAVITS
 IN THE SUPREME COURT OF SOUTH AUSTRALIA



13. Given the penalty rates that apply on public holidays, in some locations it is necessary to completely close some departments (for example front bars and bottle shops) as it is not profitable to open them during these times.
14. It is likely that this year many of the hotels we manage will not open on Christmas Day for lunch given the cost of sufficiently staffing the hotel as a result of the penalty rates.
15. At a number of the hotels, we no longer offer 'deal days' (lower priced carvery meals) on Sundays due to the cost of penalty rates. Traditionally our hotels have offered some 'deals' such as a Sunday Carvery however it is no longer profitable to do so.
16. Staff numbers have definitely been reduced as a result of the cost of penalty rates. We have also had to reduce trading hours in some venues and provide limited menus to customers on Sundays and public holidays to try and reduce the number of staff required. Without these measures, it would not be profitable to open during these times.
17. In an attempt to reduce the cost of staff for Sundays and public holidays, we now try to use salaried staff members rather than casuals where possible.

AHA Penalty Rates Proposal

18. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
19. If this proposal is accepted, it may be possible to offer customers a full service at all times including opening all departments during normal trading hours and offering full menus. This would create more work and income opportunities for staff.
20. It would also encourage investment to stimulate the hotel on Sundays and public holidays with special offers. If this drives additional business we would also be able to offer casual staff members more shifts.


26/06/15
PETER PEDLER
COMMISSIONER FOR TAKING AFFIDAVITS
IN THE SUPREME COURT OF SOUTH AUSTRALIA



#SWORN #AFFIRMED

At [place]

Adelaide

On [date]

26th June 2015

Signature of deponent

Name of witness

PETER DAVID PEDLER

On [date]

26 JUNE 2015

Address of witness

66 WRIGHT ST ADELAIDE

Capacity of witness

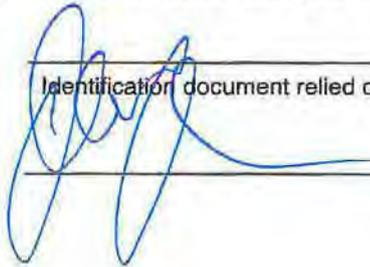
[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Signature of witness

Identification document relied on (may be original or certified copy)^[2]



PETER PEDLER
COMMISSIONER FOR TAKING AFFIDAVITS
IN THE SUPREME COURT OF SOUTH AUSTRALIA

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Anthony Lebherz, Manager of the Shearers Arms Tavern in Ormeau say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the Manager of Hospitality Properties Pty Limited, which trades as the Shearers Arms Tavern located 23 Peachey Road, Ormeau in Queensland.
4. The Shearers Arms Tavern is 7 days a week: Sunday to Wednesday from 10am – midnight and Thursday to Saturday from 10am to 2am.
5. The restaurant is open Breakfast Sunday 7:30am – 10.30am and 5.30pm to 8.30pm, Monday to Thursday 12pm until 2.30pm and 5.30pm until 8.30pm and Friday to Saturday 12pm until 2.30pm and 5.30pm until 9pm.
6. The Tavern has a bar, restaurant, gaming room and bottle shop.
7. I employ forty seven employees at the Shearers Arms Tavern. Of those, thirty nine are casual at grade { seven at grade 4, Eight at grade 3 and twenty two at grade 2 as well as two at clerical grade 3} under the Award and eight are permanent employees engaged under the Award.
8. Our casual employees are mostly a mix of students, single people, parents and people who work second jobs.
9. **Penalty Rates**
10. I have casual staff that work on weekends because it suits them. fourteen of my casual staff members are university or TAFE students and I would like to be able to roster them to work on Sundays and public holidays as they are shifts that suit their lifestyle.
11. Unfortunately, as a result of penalty rates on Sundays and public holidays I cannot afford to do so.

12. The Tavern is a short drive from major theme parks like Dreamworld, Wet'n'Wild and Movie World, so public holidays are always busy days. However, I try to reduce the financial impact on the business of penalty rates by operating with reduced staff levels and giving preference to managers for shifts.
13. Notwithstanding the fact it is busy, and I have measures to reduce labour costs in place, it still usually costs the Tavern an additional \$2,000.00 to trade on public holidays because of penalty rates.
14. We made the decision not to reduce services offered on weekends or public holidays as there is still a demand for business, and we like to provide our customers with continuity of service.

Impact of the proposed change to penalty rates

15. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would consider increasing the service offerings of the Tavern by developing our community initiatives, such as putting in a playground for the children.

16. My establishment is very involved with the local community and sponsors the local rugby and cricket clubs. If penalty rates were those proposed by the AHA the Tavern would be able to provide further sponsorship to those clubs, and potentially be able to support an additional sporting club.
17. I would also consider extending the food service on a Sunday, providing more work to staff and so that families could have lunch, in addition to our breakfast option.
18. Rostering more casual staff on the weekends and public holidays is important to me, as it will improve the quality of our service and ease the burden on the employees that already work those days. I estimate between ten and twenty additional hours may be used.

At ORMEAU

On 26 JUNE 2015.

Signature of deponent

Name of witness

JILL LOUISE SMITH

On 26 JUNE 2015.

Address of witness 21 PEARTNEY RD ORMEAU QLS 4208

Capacity of witness CDEC 87184

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent ~~a face covering~~, but I am satisfied that the deponent had a special #I have confirmed the deponent's identity using the following identification document:

Q45 DLIC 69058709 D

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Ashleigh Winn, Hotel Manager of Halikos Hospitality Pty Ltd ('Halikos Hospitality'), say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Halikos Hospitality

3. I am a Hotel Manager at Halikos Hospitality. I am the Food, Beverage and Gaming Manager for the following venues:
 - a. H Hotel;
 - b. Frontier Hotel; and
 - c. H 105 Mitchell Hotel and Apartments.
4. I have been a Hotel Manager for **18 years**.
5. I have been in the Hospitality Industry for **26 years**.

H Hotel

6. The H Hotel is located at Smith Street in Darwin's central business district.
7. The H Hotel is close to Darwin's entertainment and night-life hub.
8. The H Hotel offers 186 standard, deluxe and suite style rooms as well as an alfresco dining area, 24 hour reception and a tour desk and booking service.
9. The H Hotel employs **54 Staff** comprising:
 - a. **21 salaried** full time staff;
 - b. **1** part time staff; and
 - c. **32** casual staff.
10. All staff employed at the H Hotel are covered by the Award.



11. There is no enterprise agreement.

Frontier Hotel

12. The Frontier Hotel is located at 3 Buffalo Court, Darwin.

13. The Frontier Hotel boasts the only rooftop restaurant open for breakfast and dinner and also available for private functions and weddings.

14. The Frontier Hotel has 91 accommodation rooms ranging from one bedroom apartments to quad rooms.

15. The Hotel also includes a restaurant, 24 hour reception, public bar with gaming facilities, guest laundry with ironing facilities and a tour desk.

16. The Frontier Hotel employs **51 staff** comprising:

a. **8 salaried** full time staff;

b. **1** part time staff; and

c. **42** casual staff.

17. All staff are covered by the Award.

18. There is no enterprise agreement.

H 105 Mitchell Hotel and Apartments

19. The H105 Mitchell Hotel and Apartments ('the H 105 Hotel') is a new property located at 105 Mitchell Street, Darwin.

20. The H 105 Mitchell Hotel comprises:

a. 180 hotel rooms and apartments;

b. Restaurant and bar;

c. Sports bar;

d. Keno and Gaming Room; and

e. 24 hour reception.

21. The H 105 Mitchell Hotel will employ approximately **65 staff** comprising:

a. **Approximately 15 salaried** full time staff;

b. **Approximately 5** part time staff; and

c. **Approximately 45** casual staff.

22. All staff are covered by the Award.

23. There is no enterprise agreement.



Sunday and Public Holiday Penalty Rates

24. All of the Hotels are run on skeleton staff on Sundays and public holidays as a result of the penalty rates that apply on these days.
25. Consideration has been given to holding special events on public holidays however it has been found to be cost prohibitive due to penalty rates.
26. As a service industry, on Sundays and public holidays when other businesses are closed, we would like to offer the widest range of services available to patrons however given the high penalty rates that apply, it is not possible to do so.
27. Full time staff are expected to work on public holidays in order to reduce wages caused by penalty rates. These staff are then given a day off.

AHA Penalty Rates Proposal

28. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
29. If the AHA's proposal is accepted, it would be possible to roster casual staff members to work on public holidays so that full time staff are not required to work. This would mean that full time staff can take public holidays off to spend with their families.

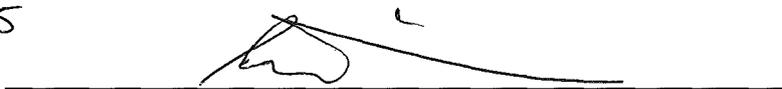
A handwritten signature in black ink, consisting of several overlapping loops and a trailing line.A handwritten signature in black ink, featuring a prominent vertical stroke and a horizontal line extending to the right.

#SWORN #AFFIRMED

At [place] Darwin

On [date] 29/6/15

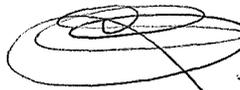
Signature of deponent



Name of witness

On [date]

Address of witness



29 JUNE 2015

Capacity of witness

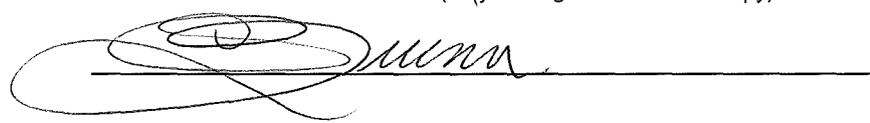
~~Justice of the peace~~ #Solicitor #Barrister #Commissioner
for affidavits #Notary public

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- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



Julianne Quinn
Commissioner for Oaths (NT)
Telephone: (08) 8999 6574
SUPREME COURT
DARWIN 0800

[1] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[2] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Belinda Usher, Owner and Manager of The Fitzroy Beer Garden say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

1. I am the owner and manager of Dragons Door Pty Limited which trades as The Fitzroy Beer Garden.
2. The Fitzroy Beer Garden is located at 243 – 245 Gertrude Street, Fitzroy in Victoria. We are open Wednesday and Thursday from 4pm until 1am, Friday and Saturday from 12pm until 1am and Sunday from 12pm until 10pm.
3. I have owned and managed this hotel for 9 years and 2 months. I have been in the hotel industry for about 24 years.
4. The Fitzroy Beer Garden employs 12 people, which is currently made up of seven salaried employees and the following casuals: 1 x Grade 3 F& B Attendant, 1 x Grade 1 Kitchen Attendant, 1 x Grade 1 F & B Attendant, and 2 x Grade 2 F & B Attendants who are covered by the Award.
5. There is no enterprise agreement.
6. The Fitzroy Beer Garden has a bistro with 25 seats, a beer garden and two bars.

Penalty Rates

7. The Fitzroy Beer Garden is in a popular area for food and wine. It is about 2 kilometres from the centre of Melbourne, which is a trendy area that attracts younger people.
8. My preference is not open on some public holidays as our clientele tend to leave town specifically for those public holiday long weekends. As we anticipate having reduced trade, and we are certain staff expenses will be high, it is impractical and financially unviable to remain open for every public holiday.

9. When we do open on a public holiday I roster my salaried employees to work. That is because they are a cheaper and a more efficient use of working hours on these days.
10. Five of my casual staff members are students or people working a second job. As they are keen to obtain some extra work and money I would like to be able to roster those casual staff to work on Sundays and public holidays. Unfortunately, due the excessive penalty rates those employees attract when they work on Sundays and public holidays, I am unable to do so.
11. Until recently, my establishment was open for limited hours only on Sundays as (even though that day is traditionally busy) we made insufficient sales to offset the cost of employing staff.
12. However, we have recently started staying open for longer to remain competitive within the Fitzroy food and wine market.
13. As a trade-off for opening extended hours on Sundays and some public holidays, I have had to reduce services that I would prefer to offer patrons. I close the Fitzroy Beer Garden on Mondays and Tuesdays to save overhead costs, and currently open just one of our bars on Sundays and public holidays.

Impact of the proposed change to penalty rates

14. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would offer patrons our usual services on Sundays and public holidays. I would also roster more casual staff members to work these days. I believe two staff shifts for casuals would be available on these days.

15. I would also like to open the business on Tuesdays and consider splitting the Sunday and Tuesday shifts between the salaried and casual staff. That would create more work for my casual employees on the weekend, which is when they want to work.

#SWORN #AFFIRMED

At [place]

FITZROY, VICTORIA
26 JUNE 2015

On [date]

Signature of deponent

Bill

Name of witness

JOHN SWEETMAN

On [date]

26 JUNE 2015

Address of witness

11 DALE STREET BULLEEN VICTORIA

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [1]~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
~~#I have confirmed the deponent's identity using the following identification document:~~

Identification document relied on (may be original or certified copy)^[2]

Signature of witness

John Sweetman JP

A JUSTICE OF THE PEACE FOR VICTORIA
REG. No. 9983
JOHN COLIN SWEETMAN
11 DALE STREET, BULLEEN, VIC. 3105

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Clive Johnston, Owner say on oath/affirm

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the Owner of Pencray Pty Ltd which trades as the Prince Alfred Hotel located at 170 Brisbane Road, Booval, Queensland.
4. The Prince Alfred Hotel is open from 10am to 1pm Monday and Saturday and from 10am to 12am on a Sunday.
5. We trade as normal on public holidays however we close the botte shop.

Staff

6. We employ around 70 staff, three of whom are permanent part-time, one Full time and seventeen salary staff not covered by the Award.

Penalty rates

7. On Sundays and public holidays we actively reduce the number of Award-covered staff that are rostered to work and focus on providing shifts to the salaried management employees that don't receive additional penalty rates.
8. Of course, in order to adequately staff the Hotel and provide quality service to customers we are required to also engage our casual employees on Sundays and public holidays which represents a significant financial burden to our business.
9. I estimate that wages make up around 40% of the cost of our business on Sundays and public holidays. That does not include on-costs such as superannuation, insurance, and payroll tax.
10. The casuals I engage to work Sundays and public holidays are very keen to obtain those shifts as it suits their lifestyle, and the money is so good. There is a breakdown of mothers who can only work on those days as their husbands can look after the children, and university students who have flexible timetables and work when it suits them.

11. As noted above, we shut our bottle shop on public holidays as it the amount it costs for employees to work is too high to offset any profit made.
12. I keep the rest of the pub open however. That is not because we make a profit on Sundays and public holidays – rather, it is because I want to provide my customers with continuity of service, and the opportunity to have a drink and a meal with friends and family on a long weekend.
13. It is hard to find anywhere to have a drink around Ipswich on a public holiday. In fact, around 5 or 6 hotels have closed completely since Christmas, which demonstrates the financial struggles publicans are facing in keeping their Hotels operating. Regrettably, a large reason for those struggles is due to the cost of labour, and in particular penalty rates.
14. I am also in a fortunate position as I have gaming section to my Hotel. That generates an income, and is not very labour intensive. Were it not for the income I receive from gaming on Sundays and public holidays I would consider not opening the Hotel at all.
15. We also have a surcharge on meals and drinks on public holidays. Sometimes people will object to paying the surcharge and walk out, however I need to have additional income on public holidays due to the increased amount I am spending on staff wages.

AHA Penalty Rates Proposal

16. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
17. If the AHA's proposal was accepted, I would roster more of my younger employees to work on Sundays and public holidays.
18. As noted above, I currently roster my salaried employees on Sundays and public holidays. The result of that decision is that younger staff miss out on the opportunity to work on days that best suit them, and to gain valuable experience working in the Hotel. Ultimately, I would like to train more of my younger staff to work at the Hotel long-term and to forge a career in the hospitality industry.

#SWORN #AFFIRMED

At [place] *IPSWICH*

On [date] *24-6-2015*

Signature of deponent

[Handwritten signature]

Name of witness

AILEEN VALMAI MORTIMER

On [date]

24-6-2015

Address of witness

IPSWICH MAGISTRATES COURT
43 ELLENBOROUGH STREET
IPSWICH QLD 4305

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

DRIVERS LICENCE. NO. 19131128.

Identification document relied on (may be original or certified copy)^[2]

Signature of witness

A V Mortimer T. Mortimer



[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

I, Colin Waller, Hotel Owner say on oath:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would have prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

The Heads Hotel

3. I am the owner and licensee of The Heads Hotel Motel Pty Ltd which trades as The Heads Hotel located at 51 River Road, Shoalhaven Heads, New South Wales 2535 (**Hotel**).
4. I have been in the Hospitality Industry for **31** years.
5. The Hotel consists of:
 - a. four bars;
 - b. a front terrace and back courtyard;
 - c. children's playground;
 - d. a bottle shop;
 - e. restaurant; and
 - f. accommodation for up to 38 persons.
6. The Hotel is open the following hours: Monday-Friday 10am to Midnight, Saturdays 7am to Midnight and Sunday 7am to 10pm and is generally open on all public holidays except for Good Friday And Christmas Day.
7. The Hotel provides lunch and dinner 7 days a week and additionally provides breakfast on the weekends, particularly for those patrons who use the accommodation facilities and who are to receive complimentary breakfast as part of our accommodation package.
8. I have calculated that 64% of the Hotel's business is received during holidays seasons, particularly Christmas and Easter, specifically from Friday at 4 pm to Sunday at 3 pm. Business otherwise is dependent on the influx of tourists visiting or occupying the surrounding coastal areas.

Staff

9. I employ 28 staff members consisting of:
 - a. 10 permanent staff as Food & Beverage Attendant from grade GD1-4, Kitchen Attendant Grade 4, Guest Service Grade 2; and
 - b. 18 casuals Food & Beverage Attendant from grade GD1-4, Kitchen Attendant Grade 4,
10. Currently 55% of my employees are students.
11. Out of the 28 staff, 12 staff are female. Five of those are permanent staff members and seven are casuals.
12. I also employ two disadvantaged employees and have received government subsidies for this.
13. All of the staff are covered by the Award.
14. There is no enterprise agreement.
15. I receive in excess of 5 applications per week from prospective employees who are either students or mothers looking primarily for weekend or night work because it suits their other commitments. I am able to offer employment to only 1 in 200 applicants.
16. Traditionally penalty rates were introduced to compensate people who had to work on the Sabbath. Many industries did not trade on a Sunday.
17. In today's society, the employment market has changed significantly. There is now an abundance of casual labour made up of students and working mothers who seek employment on weekends as it suits their lifestyle.

Penalty Rates: Weekends and Public Holidays

18. On a public holiday, the Hotel can serve somewhere in the vicinity of 250 meals to its patrons amounting to a turnover in excess of \$5,000. This turnover is reduced by 50-60% once costs arising out of the requirement to pay penalty rates to staff on public holidays are offset.
19. Due to the penalty rates that I am required to pay to staff on weekends, I will work on these days to save costs. As I am 69 years of age, I would prefer to allocate 2 casual staff members to work in my place, but I am prohibited as the Hotel cannot afford this. In addition due to penalty rates on Sundays and Public Holidays I significantly reduce my restaurant menu offering to reduce labour/wage cost of operations.
20. With penalty rates at their current level, and notwithstanding other employee related costs, I have been deterred from investing in the growth of the Hotel which has consequently effected the Hotel's job growth.
21. Overall in the past 4 years of trading, the Hotel has seen growth of 4.8% specifically in the accommodation and catering areas, Notably, beverage sales have declined. From these financial results, it is clear that Hotel operates on a low gross profit margin, lower

than the Consumer Price Index level, and in this current economic environment, wages have continued to increase.

AHA Penalty Rates Proposal

22. I am aware that the AHA is seeking an amendment to the penalty rates to:
- a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
23. If the AHA's proposal is accepted, there would be an incentive to invest into the growth of the business and the services offered thereby giving back the community.
24. It would also mean that I could consider rostering on casual staff members so that I do not have to work on all public holidays. This would provide the benefit to staff by supplementing their income with additional hours.

SWORN

At Shoalhaven Heads

On 26/06/2015

Signature of deponent



Name of witness

Brett Andrew Hills

On 26/06/2015

Address of witness

10 Mulgen Crescent Bomaderry NSW 2541

Capacity of witness

JP #150399

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.
I have confirmed the deponent's identity using the following identification document: Drivers License and Credit Card

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Dan Cronin, Hotel Owner and Manager say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

The Western Hotel

3. I am the part Owner and Manager of the Western Hotel.
4. The Western Hotel is located at 1221 Sturt Street, Ballarat Victoria 3350.
5. The Hotel is located in Ballarat, a city located in the lower western plains of the Great Dividing Range, approximately 105kms North West of Melbourne (a one hour and fifteen minute drive).
6. Ballarat is a regional destination, and therefore relies heavily on tourism. However, on public holidays many of the businesses in the main street are shut, detracting from the experience of visiting Ballarat.
7. I have owned and managed the Hotel for since 2010.
8. I have been in the Hotel Industry for approximately 19 years.
9. The Western Hotel consists of:
 - a. a public bar;
 - b. pavilion bar;
 - c. beer garden;
 - d. 120 seat bistro;
 - e. function spaces;
 - f. sports bar with TAB facilities; and
 - g. 8 accommodation rooms.
10. The Hotel is closed on some public holidays due to penalty rates that must be paid on these days.



Staff

11. I employ:
 - a. 8 full time employees **Grade 3 Food and bev and above**;and
 - b. 20 casual employees **Food and Bev Grade 2**.
12. Some staff work on Sundays and public holidays because it suits them.
13. All of the staff are covered by the Award other than 6 salaried staff which are underpinned by this award.
14. There is no enterprise agreement.

Sundays and Public Holidays

15. Given almost 70% of the Hotel's revenue is based around the weekend, it would make sense to have a higher number of staff working. However, due to the penalty rates that are incurred, we operate at lower staffing levels than we would otherwise prefer in order to combat higher wage costs.
16. Management and salaried staff work on Sundays and public holidays.
17. The Hotel offers reduced services on Sundays and public holidays that they would otherwise prefer to offer due to wages costs as a result of the current penalty rates.
18. When public holidays are scheduled our business operates with less staff than on a normal day of operation, particularly if that falls on a Friday.
19. As a result of an additional public holiday being declared in Victoria over Easter 2015, which then made public holiday penalty rates apply for four public holidays in a row, the Hotel was forced to close on those additional days (Good Friday and Easter Monday). The only reason for operating for the other two of the days was to attempt to attract some revenue however the penalty rate cost was too excessive and resulted in the hotel operating at a loss.
20. If rooms are not required, they will not be made up on a Sunday due to the penalty rates incurred.
21. Due to the 'grand final eve' holiday which has been declared in Victoria, the Hotel will have to operate on skeleton staff due to the high penalty rates that will be incurred. Salaried staff will be required to work and will be given time in lieu.
22. Where possible, as much preparation work for the bistro is done between Monday to Friday to try and avoid the additional costs associated with the penalty rates that are incurred on weekends and public holidays.
23. The Hotel is constantly trying new and reduced menus for public holidays as I have experienced guests leaving after being told that there is a surcharge.



AHA Penalty Rates Proposal

24. I am aware that the AHA is seeking an amendment to the penalty rates to:
- Sundays – 150%; and
 - Public Holidays – 225% full time and part time and 175% casuals; and
 - Additional Holidays – 200% full time and part time and 125% casuals.
25. If the AHA penalty rate proposal was accepted this would ease the pressure on the business and enable us to employ more staff under the award on shifts covering our peak weekend times.
26. If the AHA's proposal is accepted, we are less likely to close on public holidays and could offer existing award covered staff more hours.

#SWORN #AFFIRMED at

BALLARAT on 24 June 2015

Signature of deponent



Name of witness

Address of witness

Capacity of witness

LUKE MICHAEL DUNNE
of 6 Dawson Street North, Ballarat.
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004
#Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- #I saw the face of the deponent.** [OR delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹
- #I have known the deponent for at least 12 months.** [OR delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)²

Signature of witness



LUKE MICHAEL DUNNE
of 6 Dawson Street North, Ballarat.
An Australian Legal Practitioner within the
meaning of the Legal Profession Act 2004

¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION**Review of the *Hospitality Industry (General) Award 2010* and others****PENALTY RATES****Matter No: AM2014/272****Applicant: Australian Hotels Association**

I, Darren Lea Brown, Hotel Manager say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

The Shoreline Hotel

3. I am the Manager of the Shoreline Hotel.
4. The Shoreline is an award-winning Hotel located at 10 Shoreline Drive, Howrah, Tasmania 7018.
5. Howrah is a suburb located in the greater Hobart region of Tasmania, 6.2kms from the Hobart CBD.
6. While not in a high tourist area, the Hotel is adjacent to Shoreline Shopping Centre which trades 7 days per week.
7. I have managed the Hotel for 15 years, since 2000
8. I have been in the hotel industry for 37 years.
9. The Hotel consists of a sports bar, Cafe bar, general bar, 220 seat bistro, function area, Ubet retail outlet, 30 gaming machines including TasKeno, 14 accommodation units and a drive-thru bottle shop
10. The Hotel is open the following hours:
 - i. Monday – 8.30am till 10pm
 - ii. Tuesday – 8.30am till 10pm
 - iii. Wednesday – 8.30am till 10.30pm
 - iv. Thursday – 8.30am till 10.30pm
 - v. Friday - 8:30am till 11pm
 - vi. Saturday – 8:30am till 11pm

- vii. Sunday – 8.30am till 9pm
- viii. Closed Good Friday
- ix. Bar and Gaming Closed on Christmas Day

11. The Hotel is open on all public holidays other than Good Friday and Lunch only on Christmas Day and has a reputation for being one of Hobart's premier entertainment venues following its substantial refurbishment in 2001.

Staff

- 12. I employ 25 full time employees and 39 casual employees.
- 13. Some staff work on Sundays and public holidays because it suits them.
- 14. All staff are covered by the Award.
- 15. There is no enterprise agreement.

Public Holidays

- 16. Due to labour costs, staff levels are at a minimum on Sundays and public holidays compared to Monday to Saturday staffing levels. Moreover, the Hotel reduces award covered staff on Sunday and public holidays in any area, preferring to operate with skeleton staff and salaried management whereas more hours would be offered to casual staff if wages costs were reduced.
- 17. The Hotel offers reduced services on Sundays and public holidays that they would otherwise prefer to offer due to wages costs.
- 18. Where possible, cleaning of accommodation rooms is not performed on a public holiday. Rather, it is left until the next normal business day to avoid the substantial cost of penalty rates.
- 19. The Hotel currently operates a full service on Sundays, however given the penalty rates currently imposed and strong price inelasticity (given that customers plainly do not accept surcharges), we will have to consider limiting the Hotel's offering as it is not economically viable to offer a full service.
- 20. We have in recent times attempted to open and offer all services on public holidays, albeit at reduced hours. It has become a loss-making exercise, and with increased wages we will be forced to reconsider the Hotel's offering and close the bistro, our largest loss making service, in order to concentrate on Gaming, the Bottle Shop and a reduced Bar offering.
- 21. I have found through many years of working in the industry as both an employee and employer that there are unintended consequences related to the cost of penalty rates on Sundays and public holidays, these include:
 - a. The necessity of rostering permanent and salaried staff on these days to reduce costs which means that those employees rarely have the benefit of a

three day or longer break with their families. Accordingly, we penalise those that do the bulk of the hours.

- b. The loss of opportunity for casual staff of the Hotel to have hours on Sundays and Public Holidays. It is the loss of their normal shift and loss of normal income that is important to them, not the rate of pay that they may receive where they get a shift.

AHA Penalty Rates Proposal

- 22. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
- 23. If the AHA's proposal is accepted, we will consider offering a full service on Sundays and public holidays. It will also mean that we can offer more shifts to casual staff members.
- 24. If the AHA's proposal is not accepted, we will continue to experience a decrease in trade and an increase in costs on public holidays as a result of the penalty rates.

#SWORN #AFFIRMED at

Signature of deponent

[Handwritten Signature]

Name of witness

ANITA CHO I

Address of witness

Shoreline Amcal Pharmacy, Shoreline Drive, Howrah TAS 7018

Capacity of witness

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1. #I saw the face of the deponent.
- 2. #I have confirmed the deponent's identity using the following identification document: *Driver License*
Identification document relied on (may be original or certified copy)¹

Signature of witness

[Handwritten Signature]

¹ "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Qaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Darren Gunn, Hotel Owner say on oath/affirm.

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010* (**the Award**)
2. This affidavit by me accurately sets out the evidence that I would have prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Crescent Head Hotel

3. I am a director of Crescent Head Tavern Pty Ltd which trades as Crescent Head Tavern located at 2 Main Street, Crescent Head New South Wales 2440 (**Tavern**). I have owned and managed the Tavern since 22 September 2010.
4. I have been in the hospitality industry for my entire career.
5. The Tavern consists of
 - a. a public bar;
 - b. a bistro; and
 - c. a combined bottle shop and take away pizza shop.

Staff

6. I currently employ 10 staff members as well as myself and my wife.
7. The staff are:
 - a. 1 full time salaried staff member who is classified under the Award as a bottle shop manager; and
 - b. 9 casuals made up of the following classifications:
 - i. Four food and beverage attendants grade 1; and
 - ii. Five food and beverage attendants grade 3.
8. All of the staff are covered by the Award.
9. There is no enterprise agreement.

10. As I have been in the Hospitality Industry my entire career and have worked my way through a range of different positions within the Industry, I am very passionate about giving an opportunity to young employees to learn and build a career in the Industry.
11. Although I am able to employ people from the age of 15 to work in the bistro area of the Tavern, these employees are generally only available to work on weekends and public holidays. Accordingly, the cost to the business of training these staff members when penalty rates must be paid means that I am not able to invest in these potential employees.

Penalty Rates: Weekends and Public Holidays

12. Over one Christmas period the Tavern spent approximately \$21,000 in wages because of the penalty rates that are imposed.
13. Due to the seasonal nature of Crescent Head, during a winter period the Tavern was faced with the prospect of ceasing trade during this period.
14. During one winter season, to ensure that the Tavern continued to trade, I had to use my personal savings to keep the Tavern afloat.
15. Due to the current penalty rates on public holidays, my wife, the salaried employee and myself will work to save costs. It is too expensive to otherwise allocate any other staff member to work on public holidays.
16. Currently I am working 120 hours a week to reduce wage costs that I would otherwise have to pay due to the penalty rates. My wife also works between 60 and 70 hours per week. Working such hours takes me and my wife away from our young son.
17. Due to the penalty rates I am required to pay our staff on public holidays, it is not economical to operate the bottle shop on public holidays in winter.
18. The difficulty with remaining open on a public holiday is that once wages are paid, at a penalty rate, profit is minimal and at times the Tavern merely breaks even. In order to offset such costs, I cannot afford to offer our patrons live music on public holidays.
19. As a general observation, the cost of penalty rates discourages any investment into the growth of the Tavern. Instead of focusing on growth, I am focusing on cost pressures.
20. My aim is to provide the community with a family friendly Tavern in order to encourage family patronage. My plan was to invest on this basis by including, among other things, a child friendly area, but given the current penalty rates such facilities would further increase wage costs. Accordingly, such an investment is not economical.

AHA Penalty Rates Proposal

21. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and

c. Additional Holidays – 200% full time and part time and 125% casuals.

22. Given I am a business owner in a small town, I would like to be able to provide employment opportunities to locals and also provide services to locals on all public holidays. If the AHA's proposal was accepted, I would endeavour to open all areas of the Tavern on public holidays.
23. I would also consider providing live entertainment on Sundays and public holidays as this is something that is attractive to the community.

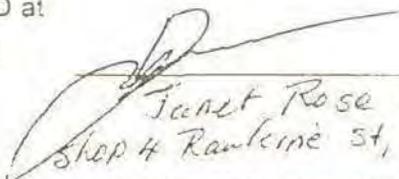
#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness


Janet Rose McKay
Shop 4 Rawleins St, CRESCENT HEAD 2440 NSW.
[~~#Justice of the peace~~ ~~#Solicitor~~ ~~#Barrister~~ ~~#Commissioner for affidavits~~ ~~#Notary public~~]

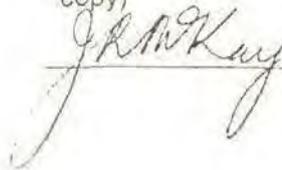
And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.~~¹
- 2 #I have known the deponent for at least 12 months. [OR delete whichever option is inapplicable]
~~#I have confirmed the deponent's identity using the following identification document:~~

DRIVERS LICENCE (NSW)

Identification document relied on (may be original or certified copy)²

Signature of witness



[¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, David Gibson, Owner of the Westcourt Tavern say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am Owner of the Westcourt Tavern located at 200 Aumuller Street, Westcourt in Queensland.
4. The Westcourt Tavern is open 7 days a week. The bottle shop is open from 10am until midnight, the poker machines and bar are open from 10am until 2am and the kitchen is open for lunch and dinner between 11.30am and 2pm and 6pm to 8.30pm.
5. I employ 25 people at the Westcourt Tavern. I have around 7 full time and 18 casual employees. I have 2 employees on a salary and the rest are covered by Award. There is no enterprise Agreement.
6. My casual employees are mostly a mix of students, young single people, parents & people who work second jobs.

Effect of Penalty Rates

7. On public holidays I open one bar (we have two) and one gaming room between 10am and 7pm. The bottle shop is open from 10am until around 7pm and the kitchen does not open at all.
8. The reason we do not open the kitchen and have restricted trading hours for the bottle shop and gaming/bar area is because of the amount I am required to pay my staff on public holidays.
9. I will roster my salaried employees on public holidays, and I also work in an effort to save costs. I restrict the number of Award-covered employees that I roster to work and offer preferential treatment when allocating shifts to those that are the most efficient and can work with less assistance.
10. Public holidays are not a profitable day for me, and the reason we stay open is because we want to offer our customers consistent service.

11. I would like to be offer kitchen service but penalty rates make it impossible to employ kitchen staff to work. My customers express their frustration to me on public holidays that there is nowhere to get a meal on a public holiday as everywhere is closed. In a tourist town like Cairns I think that is ridiculous, but I understand that the cost of employing people is just too high.
12. It is also my staff that miss out on shifts, and in turn additional income, when we close the kitchen and reduce services on public holidays. All of my casual employees, be they students, married people with families or single people with the Tavern as their only source of income, want to work on public holidays.
13. In fact, it is my experience that those employees would want to work even if penalty rates were not so high. That is because we generally roster our casual employees for a maximum of five hours per shift, ~~a couple of days per week~~. WITH 2 Day off Per Week
14. We usually close the entire Easter long weekend even though only three of the four days (the Sunday) is not a public holiday. Even though it is not a public holiday, my staff still tell me they want to work on the Sunday.
15. We try to roster our casuals on regular shifts and it is disappointing that, if we shut on those four days over Easter, some will miss out on almost a week's worth of work. Also, the staff that do work are required to work reduced hours.

Sundays

16. Sundays are a busy day for us, and we are fortunate as we generate a lot of revenue from our gaming room. If that were not the case, and we were forced to rely on earnings from the kitchen and bar alone, we would most likely shut the kitchen on Sundays.
17. That is because the cost of employing people to work in the kitchen on a Sunday is a significant burden to the business. That is in addition to the financial costs associated with the increase in penalty rates for those employees working between 7pm and 12am.

Impact of the proposed change to penalty rates

18. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

We would open the kitchen on public holidays and extend our operating hours to those of regular trading days. That would enable the hotel to offer a substantial amount of extra shifts for my employees. This in turn would show a considerable increase in our staffs pay packets.

#SWORN #AFFIRMED

At [place] BRISBANE

On [date] 29/6/15

Signature of deponent



Name of witness BRONWYN JANE PROSS

On [date] 29/6/15

Address of witness 14 Hinkler Street, Kedron

Capacity of witness Solicitor

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent).

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Drivers licence

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

GrIN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, David Ovenden, Group Operations Manager of the Glen Hotel, say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Personal Background

3. I am the Group Operations Manager of the Glen Hotel. I have held this position since 2006.
4. I have been involved in hospitality industry since 1996 mainly in the capacity of Management.
5. My experience ranges as a Trainee Manager for Dreamworld Pty Ltd and then Hotel Manager for The Glen Hotel, Food Operations Manager for Myer Centre Food Court, Hotel Manager Waterloo Bay Hotel, Fitzzy's Waterford Hotel and then into a Group Operations Management role at The Glen Hotel.

The Glen Hotel

6. The Glen Hotel is located in Eight Mile Plains, Queensland. Eight Mile Plains is approximately 15 minutes drive from Brisbane's CBD.
7. The Glen Hotel has been owned by the Fitzgibbon family since 1960.
8. The Glen Hotel is open **24 hours a day for Accommodation and 10am until 3.30am in the main hotel.**
9. The Hotel consists of:
 - a. Restaurant;
 - b. Bar and bistro;
 - c. Gaming lounge;
 - d. 4.5 star hotel and suites;

- e. Bottleshop; and
 - f. Wedding and function facilities.
10. There is live music every Sunday from 2.00pm until 6.00pm.

Staff

11. The Hotel currently employs **120** of employees comprising:
- a. **40** of full time;
 - b. **1** of part time; and
 - c. **79** of casuals.
12. All of the staff are covered by the Award.
13. There is no enterprise agreement.

Sundays and Public Holidays

14. A large number of staff that we employ as casuals are students. These staff members prefer to work on weekends and public holidays because it suits them to fit around study or other part time jobs.
15. Due to the cost of staffing the restaurant as a result of the penalty rates, the restaurant is closed on a number of public holidays. On the public holidays that the restaurant is opened, a 15% surcharge is imposed to try and mitigate the cost of penalty rates.
16. Where possible, no hotel rooms are serviced upon on public holidays to avoid the additional cost incurred as a result of penalty rates. They are left until the day following the public holiday.
17. Where possible salaried staff are utilised on public holidays to run the bottle shop. No casual or non-salaried staff are rostered. This means that salaried staff are very often not able to take time off on public holidays.

AHA Penalty Rates Proposal

18. I am aware that the AHA is seeking an amendment to the penalty rates to:
- a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
19. If the AHA's proposal was accepted, it would mean that there would be greater opportunity to offer additional hours to casual and non-salaried staff members on Sundays and public holidays. This would have the flow on effect that salaried staff could then take public holidays off if they choose.

20. It would also mean that we could provide a full restaurant service on public holidays.
21. We would also look to provide more entertainment and services on public holidays if the wages were made the occasion more commercially viable.

#SWORN #AFFIRMED

At [place]

Expt Mbe Aurora Brisbane
26th June 2015

On [date]

Signature of deponent

[Signature]

Name of witness

Catherine Mary Fitzgerald

On [date]

26th June 2015

Address of witness

458 Greve Road, Lockdale, Q, 4123

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable] _____
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable] _____
 #I have confirmed the deponent's identity using the following identification document: _____

Driver's licence no 623653378
 Identification document relied on (may be original or certified copy)^[2]

Signature of witness

[Signature]

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Dean William Tregrove, Hotel Owner say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would have prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Mulga Hill Tavern

3. I am a director of Mulga Hill Pty Ltd which trades as Mulga Hill Tavern at 264 Oxide Street, Broken Hill New South Wales 2880 (**Hotel**).
4. I have owned and managed the Hotel since 1995.
5. The Hotel consists of bars, beer garden, bottle shop and dining areas.
6. The Hotel is open the following hours:
 - a. Monday – Thursday – 10:00 am – 12:00 am
 - b. Friday – 10:00 am – 02:00 am
 - c. Saturday – 010:00 am – 2:00 am
 - d. Sunday – 11:00 am – 11:30 pm
7. The Hotel is located in Broken Hill which is an isolated mining city in far west outback New South Wales near the South Australian border.

Staff

8. I currently employ **30** employees of various Classifications which is made up of:
 - a. 10 full time employees
 - b. 2 part time employees
 - c. 18 casual employees
9. All of the Staff except for myself are covered by the Award.
10. There is no enterprise agreement.

11. Allocating Staff to work on Sundays is a difficult task. My staff allocations typically involve three permanents and working during the day, three permanent and three casuals working in the evening.

Penalty Rates: Weekends and Public Holidays

12. As a result of having to pay the current penalty rates imposed on Sundays and public holidays, the Hotel has been put in a position whereby:
 - a. The dining service is closed for lunch on Saturdays and Sundays and for lunch and dinner on all public holidays;
 - b. promotions, live entertainment or otherwise services of a similar nature to encourage patron participation, ceases to be offered from midnight on Fridays and are not offered on any Saturdays, Sundays or Public Holidays
 - c. It is run on skeleton staff on Sundays and public holidays and I personally cover certain shifts on these days as a measure to cut these costs.

AHA Penalty Rates Proposal

13. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
14. If the AHA's proposal is accepted, it may be possible to offer a full service at all times including opening all departments during normal trading hours, full menus and offer promotions, live entertainment or otherwise services of a similar nature at a benefit to the community.
15. If the proposal isn't accepted, the Hotel will continue to exclude lunch dining services on Saturday and Sundays and dining services as a whole on public holidays. This will therefore translate into a decrease in the number of hours and income provided to employees. It would also impact families that would normally dine at the Hotel on these days.
16. The current penalty rates have had a flow on effect to the profitability of the Hotel which has discouraged any investment. If the AHA's proposal is accepted it will allow greater flexibility and incentive to invest in the Hotel for the benefit of its patrons, staff and community.
17. Further, it would mean that the Hotel could afford to offer additional shifts to its current employees on weekends and public holidays, who would otherwise not be offered such shifts, allow for an increase in the hours offered to current casual staff, would result in the employment of new employees and lastly it would provide the opportunity for some casual staff to become permanent full time.

~~#SWORN~~ #AFFIRMED

At [place] Broken Hill local court.

On [date] 26.6.2015.

Signature of deponent

DW Trunge

Name of witness

Teresa Pitt

On [date]

26.6.2015

Address of witness

1 - Broken Hill local Court

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [1]~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Signature of witness

NSW D/L 5644AE
Identification document relied on (may be original or certified copy)^[2]

Teresa Pitt
Justice of the Peace for NSW
Registration No. 20128

[1] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[2] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Dennis Madden Director and Manager of Madden's Commercial Hotel, Camperdown, say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Commercial Hotel, Camperdown

3. I am a director and Manager of Madden's Commercial Hotel, Camperdown.
4. I with my family have owned the Commercial Hotel for 49 years.
5. The Commercial Hotel is located in Camperdown, Victoria which is approximately 200km west of Melbourne.
6. The Commercial Hotel is open:
 - a. [10.00 am to 11.00 pm winter to 1.00 am during Summer. Our cleaning staff start at 6.00 am every day];
 - b. Sunday – 11.00am – 11.00pm
7. There are 42 employees which is made up of 7 full-time and 35 casual at the Federal General Award.2010 As manager I am the only salaried employee].
8. All employees are covered by the Award and there is no enterprise agreement.
9. The Commercial Hotel has the following facilities:
 - a. 216 person bistro;
 - b. Two function rooms – one with a 100 person capacity and the other with 80 person capacity;
 - c. 80 person beer garden/undercover courtyard bar;
 - d. 14 accommodation rooms;
 - e. 29 gaming machines; Bodicia bar & coffee shop seating 30 guests



- f. Back bar Tab wagering Sports bar dining and TAB; and seating 35 guests
- g. Drive-thru bottleshop.
- h. Licenced capacity 780 persons

Public Holidays

10. We usually open the Hotel on public holidays as there is a community expectation that we will do so. On those days I roster my regular employees and I work myself to cut costs. I am reviewing opening as on the Queen's birthday Monday the hotel lost a significant amount of money because of low turnover and high wage costs.
11. However as the penalty rates I pay staff are having an increasingly significant financial impact on the business, and having regard to the new casual rate of pay for food and beverage attendants grade 2 which increases to \$50.79 per hour on a public holiday from 1 July 2015, I recently decided to trial different methods to save expenses.
12. The Victorian Government declared Easter Saturday and Easter Sunday public holidays, together with the existing Good Friday and Easter Monday public holidays in 2015, this made four public holidays in a row.
13. The Commercial Hotel closed over the four days of Easter 2015. Attached and marked 'DM-1' is a copy of a banner that was placed on the balcony of the Commercial Hotel advising customers why the Hotel was closed.
14. Even though I anticipated we would run the business at a loss over that weekend, I regret making the decision to close. Everybody missed out; we made no income at all and overheads (which don't recognise long weekends) continued to impact us; all the casual staff were denied shifts and an income for four days; the customers who wanted somewhere to have a meal and a drink were denied the opportunity to do so; and the region suffered as tourists and visitors passing through to locations like the Great Ocean Road, Warrnambool and Port Fairy were driving through shut-up country towns.
15. Over the Queen's Birthday weekend 2015 I adopted a "minimum" opening approach and we opened the Back Bar Drive In & Tab service for reduced hours from 12 noon until 6.00 pm, as well as the Gaming room from Noon to 8.00 pm.
16. I worked, with the addition of one staff member] in Gaming and one staff member in the Back bar, Tab and Bottle shop. Ultimately it was a financial disaster: gaming was half what we would have on a bad day, the money we took over the bar and bottle shop was less than \$1000.
17. The lesson I learnt from the Queen's birthday weekend was that Hotels function as a whole, not as a sum of the parts. Customers want to share an experience – some are not interested in wagering or gaming, others only want a meal, some a drink, for others simply company. If you close some of the parts of a Hotel, you lose the whole.



18. To satisfy the collective group all options food beverage wagering and gaming have to be available. If all options are not available, customers will seek out an alternative, which in the country means driving to a regional centre like Warrnambool or Geelong.

Sundays

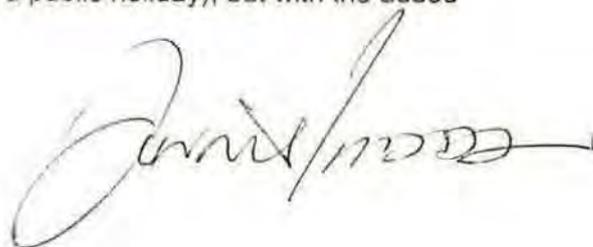
19. I operate the Hotel at full capacity on a Sunday as I like to provide a service to my customers. Our Hotel is a place people traditionally met for a drink and a meal on a Sunday, and I feel an obligation to ensure that is continued. However, I give preference to my regular employees on that day as they are less expensive.

Employees that work Sundays/Public Holidays

20. The employees that I roster to work on public holidays work the hours they do because they choose to, and that includes on public holidays and Sundays.
21. Around 15] of my casual employees structure work to revolve around family which can be determined by having children at school, elder children looking after younger siblings or having partners and husbands that can fulfil a parenting role.
22. Of course, there are some employees that choose to work not only for the extra income but for the social interaction. Around 12 of my casual employees live on rural properties or in nearby small towns and actually look forward to coming into work, including on Sundays and public holidays!
23. It is disappointing that due to the excessive penalty rates in the Award I choose to reduce my staff numbers, and roster myself over those casual staff on Sundays and public holidays.

Impact of the proposed change to penalty rates

24. If penalty rates were those being sought by the Australian Hotels Association:
- a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,
- I would roster 12 more casual staff members to open the kitchen and work these days.
25. I would also be able to accept function bookings on public holidays which is an important service I provide to the community.
26. With respect to additional holidays, as noted above the Easter Saturday public holiday had an enormous financial impact on my Hotel from a labour cost perspective. I anticipate facing the same issue on the day before the football Grand Final this year (which the Victorian Government has declared a public holiday), but with the added blow of an increase in penalty rates.



27. Public holidays have an overall negative effect on rural towns, workers in the area that are living away from home are keen to return home and leave early prior to public holiday. Companies after long weekends restrict the number of employees they send out to country areas on short weeks because of productivity concerns many construction unions have a recovery day clause after public holidays, cutting work days back to three days with many finishing early Friday so as workers can return to the company's base.
28. If I could trade on additional public holidays as a normal day in terms of payment to my casual employees I would certainly roster them on to work, which would provide them with a financial benefit.

#SWORN #AFFIRMED

At [place] CAMPERDOWN.

On [date] 29TH DAY OF JUNE 2015

Signature of deponent

Name of witness BERNARD JAMES SINNOTT

On [date] 29TH DAY OF JUNE 2015

Address of witness 30A CAMPBELL STREET CAMPERDOWN, VICTORIA

Capacity of witness [#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 #I have confirmed the deponent's identity using the following identification document:—

 Identification document relied on (may be original or certified copy)^[2]

Signature of witness

Bernard James Sinnott
 BERNARD JAMES SINNOTT F.Inst L Ex
 30A Campbell Street, Camperdown 3260
 A Fellow of the Institute of Legal Executives
 (Vic.) holding a current Certificate

COMMISSIONER FOR TAKING DECLARATIONS
 AND AFFIDAVITS

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

This is the annexure marked 'DM-1' referred to in the affidavit of Dennis Madden

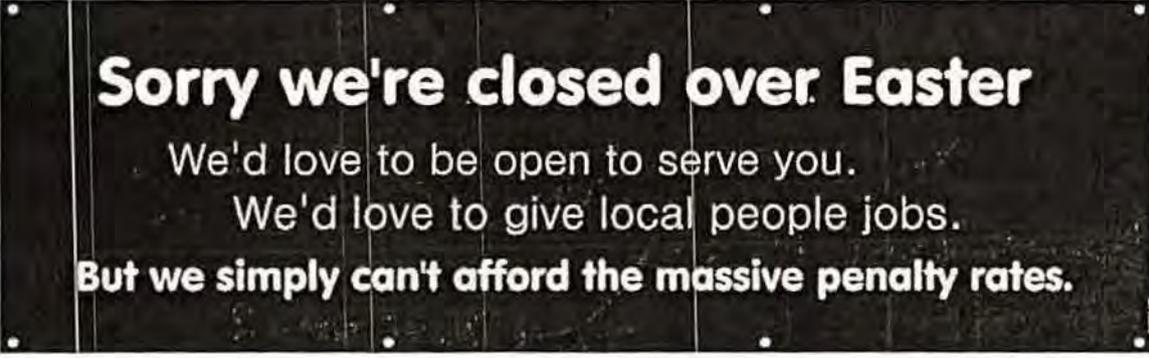
sworn/affirmed the 29th day of JUNE

2015

BERNARD JAMES SINNOTT P.Inet L. Ex
30A Campbell Street, Camperdown 3280.
A Fellow of the Institute of Legal Executives
(Vic.) holding a current Certificate

before me 

COMMISSIONER FOR TAKING DECLARATIONS
AND AFFIDAVITS



IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Fiona McDonald, Accounts Manager say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

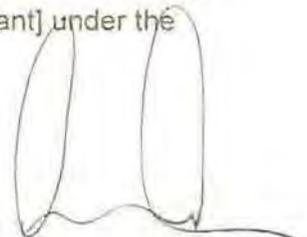
Timber Creek Hotel

3. I am the Accounts Manager (Payroll) of the Timber Creek Hotel
4. The Timber Creek Hotel is located at 94 Victoria Highway, Timber Creek NT 0852
5. The Hotel is located in Timber Creek, a small roadside town located 285 km west of Katherine and 193 km east of the border between the Northern Territory and Western Australia on the Victoria Highway, 600km south of Darwin.
6. Given Timber Creek's isolation, it relies on visitors and tourists who travel to Gregory National Park in Timber Creek for its natural beauty, wildlife and Aboriginal heritage. Timber Creek is also a large fishing destination and attracts fishermen from nearby towns and regions who are drawn to the Victoria River's Barramundi.
7. I have been in my role as a salaried employee since September 2012, and was a contractor for 2 years prior to that.
8. The Timber Creek Hotel consists of a public bar, fully licensed dining room, 32 room accommodation (Caravan Park and motel) and children's playground.
9. The Hotel is open 7 days a week, 7am to 10pm but our hours are flexible. We may close at 9pm if it is not busy, and at the moment we have contractors working at the Hotel so we have started opening for breakfast at 5.30am.

Staff

10. I employ 12-14 employees in our peak season, and that goes down to 10 when the wet season starts in around October. I have 2 management staff & 2 permanent staff on salaries and the rest are casual employees on grade [2 F&B Attendant] under the Award.



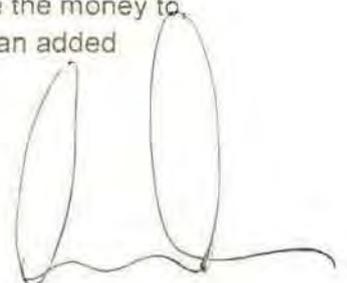


11. Around 4 or 5 of my casual employees are backpackers who are travelling through Australia and are keen to pick up some work and generally only stay for between 3 and 6 months. The rest are people we have recruited directly from an employment agency. Those employees tend to be more reliable, experienced and stay around for longer.
12. There is no enterprise agreement.

Penalty Rates

13. Timber Creek is a fishing attraction by virtue of its location of the Victoria River, and the Hotel relies on the fishermen from neighbouring towns who travel to the region on the weekend – especially on long weekends – in search of Barramundi.
14. As a small regional roadhouse located in the middle of Katherine in the Northern Territory and Kununurra in Western Australia we have no choice but to operate on all weekends and public holidays. Also during the wet season the roads around the Hotel can be cut off and visitors rely on us for somewhere to stay.
15. Extra customers on public holidays and weekends equates to extra income for the Hotel. However, paying penalty rates to our staff on those days has a financial impact on our business and means we cannot have our Hotel staffed at full capacity to cope with demand.
16. On public holidays and Sundays during the wet season, and December through to February, the owner of the Hotel will work in the kitchen which reduced the need for a cook position. In the evening the kitchen staff will assist with waiting tables which again reduced the need for a staff member to be rostered on.
17. The wet season is supposed to be a "down time" for our managers. However, they are often busier during that period filling in shifts than they are when the hotel is at full capacity.
18. In an attempt to reduce staff numbers on public holidays and Sundays during the wet season we also ask that, in addition to management, our casual staff perform multifaceted roles. For example, someone working in housekeeping may assist in the kitchen or on reception, and vice versa.
19. In the busy season we will carefully scrutinise the roster to see where staff can be trimmed, but given how busy we are it is hard to move staff from their usual roles. As a compromise we are mindful of rostering extra staff only during very busy periods, such as over dinner.
20. It is my experience that the casual staff we roster to work on public holidays and Sundays would work regardless if they received penalty rates or not. Our staff are desperate for shifts no matter what day of the week it is as appreciate the money to, for example, fund their travelling around Australia. Penalty rates are an added bonus.

Andrew Donnell



21. I recall that over the Easter long weekend in particular one staff member who usually works five days per week made the same earnings with a day's work and he was delighted.
22. Due to the impact of penalty rates on our Hotel we are always looking at ways to restructure our roster and shuffle staff around on public holidays and weekends. We are currently considering migrating to a sophisticated electronic rostering program that can plan our shifts for the week in the most economical and efficient way possible.

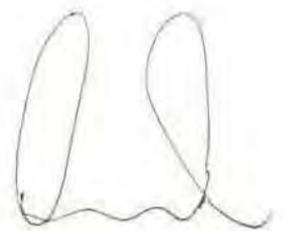
Impact of the proposed change to penalty rates

23. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would ease the burden on our management staff, and roster more casuals to work on Sundays and public holidays as they are so eager for the shifts.

24. If penalty rates were those proposed by the AHA I would invest in improved toilet and shower facilities at our caravan park, and increase the quality of service provided to our customers.
25. The AHA proposal means that the impact on the business of additional public holidays being declared is reduced. For example, in the Northern Territory it has been declared that Show Day is a public holiday. The show is in Katherine, which is around 300 kilometres away. Despite the fact people from our area do not travel to the show we are still required to pay staff penalty rates on that day, which costs us extra money.
26. Also, in the Northern Territory there is a public holiday on Easter Saturday which means we are required to pay penalty rates for three days over that weekend. That is an enormous burden for us as the Hotel sponsors a fishing competition over that weekend. We are always stretched to capacity and require maximum staff levels.
27. There is also a public holiday in the Northern Territory on 4 May, which is May Day. Katherine has a fishing festival on that weekend, and so our patronage over that weekend increases significantly. We have to roster most of our staff to work on May Day and the penalty rates are financially detrimental to the business.

McDonald



#SWORN #AFFIRMED

At [place]

KUNUNURRA

On [date]

29th June 2015.

Signature of deponent

Am Donald

Name of witness

Owen Douglas Deas

On [date]

29th June 2015.

Address of witness

94 COOLIBAH DRIVE, KUNUNURRA WA 6743

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public] JP 5529.

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

1 #I saw the face of the deponent.
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [1]

2 #I have known the deponent for at least 12 months.
#I have confirmed the deponent's identity using the following identification document:

WA MDL #4673601 EXPIRY 9/07/2018
Identification document relied on (may be original or certified copy)^[2]

Signature of witness

[Signature]

[1] The only "special justification" for not removing a face covering is a legitimate medical reason.
[2] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Peter Williams, Owner and Manager of the San Remo Hotel, Victoria say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the Owner and Manager of San Remo Hotel of 145 Marine Parade, Sam Remo in Victoria.
4. My family has owned the San Remo Hotel ("the Hotel") for 74 years. My grandfather and father ran the Hotel and I began working at the Hotel at age 18. I have been running the Hotel for the past 17 years.
5. The Hotel is located three hours from Melbourne and adjacent to Phillip Island. It is popular tourist destination in peak season as well as on public holidays and when the Motor Cycle Grand Prix is held.
6. Apart from accommodation, the Hotel offers a Bistro that seats 120, a beer garden, a drive-in bottle shop, a TAB and function rooms.
5. The Hotel opens 7 days a week from 10am. .
7. The Hotel employs 4 permanent staff who are all management and salaried and 20 casual employees at Grade1, Grade 2 and Grade 3 classifications under the Award. Two management and all of the casual staff are covered by the Award.

Penalty Rates

Effect of Penalty Rates

8. As the current penalty rates are so high, we close the Hotel at early on public holidays. Given our location, long weekends are busier for us than normal trading days however the amount we make from the sale of food and alcohol is still not enough to justify operating our regular hours.

9. We keep the Hotel open as it is important to give the impression that we are an accessible and reliable place to stay.
10. Of my casual employees comprise 2 students, 5 single workers and 13 who are parents many of whom work when their partner is available to look after the children, and they would like the opportunity to work on public holidays as it fits in with their schedule. Regrettably, due to the impact of penalty rates on public holiday earnings, I and my salaried employees do most of the hours as it is less expensive than rostering on my Award-covered employees.
11. We also try to reduce staff numbers on a Sunday where we can, as the penalty rates on that day are excessively high. For that reason we don't make up rooms on Sundays unless they are booked to somebody else for the Monday.
12. The risk with that approach is that someone will drop in without a booking and ask for a room, however that the cost of employing someone to make rooms up every Sunday outweighs that.

Impact of the proposed change to penalty rates

13. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would offer patrons our usual services on Sundays and public holidays, including regular hours and a full housekeeping service. I would also roster more casual staff members collectively up to an extra 23 casual hours on a public holiday. That would lessen the burden on me and my family, and provide some extra cash for my employees.

14. Being able to roster my casual employees to work on an additional public holiday, given there are so many in Victoria, would ease the financial burden on the Hotel. I would consider trading at usual hours on that day and provide a greater range of services to guests.

#SWORN #AFFIRMED

At [place]

On [date]

Signature of deponent



Name of witness

On [date]

Address of witness

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I
 am satisfied that the deponent had a special justification for not removing the covering.[1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 #I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)^[2]

Signature of witness

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION**Review of the *Hospitality Industry (General) Award 2010* and others****PENALTY RATES****Matter No: AM2014/272****Applicant: Australian Hotels Association**

I, Helen Sergi, owner of the Steam Packet Hotel in Nelligen say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. My husband and I are Owners and Directors of Creserg Pty Ltd which trades as the Steam Packet Hotel located at 963 Kings Hwy, Nelligen in New South Wales.
4. The Steam Packet Hotel is open from 11am to 12pm Monday to Saturday and 11am to 10pm on a Sunday.
5. I employ 12 people. 9 are casuals employed at Grade [3] under the Award and 1 is full time under the Award. The other 2 employees (my husband and I) are salaried. Of the casuals I employ, around 3 or 4 are students, and for the remainder it is the only job they have.

Penalty Rates**Public Holidays**

6. We open every public holiday except for Christmas Day and Good Friday. The Hotel is on a major tourist thoroughfare on the South Coast of New South Wales and on public holidays we have the most customers.
7. Despite the fact it is so busy, on public holidays we trade at a loss due to the cost penalty rates. We are unable to provide a service to customers, and make an earning, sufficient to offset the cost of paying our casual staff.

Sundays

8. We close the bistro of the Hotel every Sunday night during winter with the exception of school holidays.
9. We keep the Hotel open because, as we are the only one that operates in Nelligen, there is a community expectation that we will do so. We are a business of service, and our customers expect to be able to order a meal and a drink at any time.

10. A lot of restaurants near the Hotel close on public holidays in our area and locals will complain if we are also not open for business.

Impact of Penalty Rates

11. We have a 10% surcharge on food on public holidays however I cannot do the same for the service of alcohol as people will not pay it. The surcharge on food only generates a couple of hundred dollars of profit in any event.
12. My husband and I will work on public holidays and Sundays to reduce the cost of labour on those days. The other people I roster on to work those days generally have another job, and are keen to earn some extra money on their days off.

Impact of the proposed change to penalty rates

13. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals,
 - c. Additional Holidays – 200% for full time and part time and 125% casuals

I would roster more of my staff to work on those days and provide them with some additional money [between three and eight hours each day]. Also, my husband and I would be able to have some time off.

14. The AHA proposal means that the impact on the business of additional public holidays being declared is reduced, particularly having regard to the number of casuals I employ.

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness

Henry
 James Claude Brown
 20 Joseph St Batemans NSW
 2530
 [#Justice of the peace #Solicitor #Barrister #Commissioner
 for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent.
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
- #I have confirmed the deponent's identity using the following identification document:

Drivers Licence NSW 9216EP

Identification document relied on (may be original or certified copy)¹

Signature of witness

S. C. Brown JP. 176311

[¹ "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Ian Green owner of the Courthouse Hotel in Mudgee say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

1. Amanda Smith and I are owners of Wisjag Enterprises Pty Limited which trades as the Courthouse Hotel located 111 Market Street, Mudgee in New South Wales.
2. The Court House Hotel is open 7 days a week from 10am to 12am Monday to Saturday and 10am to 10pm on Sunday. There are 7 pubs, 2 clubs, a brewery and a wine bar in Mudgee.
3. We employ 6 casual employees at the Court House Hotel who are covered by the Award at Grade 3. There is no enterprise agreement.

The Hotel

4. The Hotel operates at the same hours, regardless if it is a weekend or a public holiday.
5. We open all public holidays with the exception of Christmas Day and Boxing Day. We choose to open the pub on those days as we feel we have an obligation to the community, and in particular our regular patrons, to keep the Hotel open all the time. If we did not open our regular patrons will go to other establishments and there is a risk they may not return to us.
6. One of our regular patrons recently lost his wife, and he comes into the Hotel for a beer at lunch and at dinner time just for some company. As his nearest hotel, we are in walking distance. If our Hotel wasn't open he would sit at home by himself which would be detrimental to his mental health. This is just one example of the service that Hotels in rural areas provide to the community.

Penalty Rates

7. On public holidays we roster on the chef for lunch and dinner service but aside from that Amanda and I run the pub as the penalty rates are too costly to have our casual

employees working. We clean and open the pub, work the bar, do the kitchen hand job and clean and close in the evening.

8. We do not make a profit on a public holiday so in opening on a public holiday our main object is to minimise loss whilst providing continuity of service to our patrons.
9. Some public holidays are busier than others. It is difficult to anticipate what the demand for our services will be and therefore whether we need to roster on additional staff. For example, Mondays of long weekends tend to be quieter than the weekend itself.
10. We tend to err on the side of caution and not roster staff on public holidays. If it is unexpectedly busy we sometimes call them to come in and work and if available they are always more than willing.
11. We do not have a surcharge on our menu per se, however we do have a public holiday menu. Customers in general, locals and tourists alike, would balk at a surcharge on alcohol on public holidays, especially retirees or those on fixed incomes.

Impact of the proposed change to penalty rates

12. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

we would be able to offer our employees more hours on public holidays. As it stands Amanda and I work approximately 80 hours each a week, and we work more hours during a week on which a public holiday falls.
13. Although we both love what we do, Amanda and I feel we are at the risk of burning out. We also feel that we miss out on playing an active role in the community because of the number of hours we need to work to minimise our wages overhead. We would work less hours if the penalty rates above applied.
14. Our staff are more than willing to work on public holidays, and we would like to roster them on, but we cannot afford to do so. Overall, staff will work less hours in a week that has a public holiday than they would in any normal week. So where penalty rates should benefit the employee, our employees are actually being disadvantaged by public holidays because of the disproportionate rate on such days. Our staff would be prepared to work on public holidays for a lesser rate than the current rates, rather than have no hours on those days at all, as it stands now.
15. If penalty rates were those proposed by the AHA, public holidays would be a day that Amanda and I would definitely have the option of working less hours and offering more shifts to our casual employees.

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

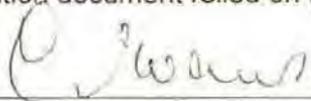
Capacity of witness


Carol Evans
94 Market St Mudgee
[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Signature of witness

new drivers licence 9061X4
Identification document relied on (may be original or certified copy)²

29/6/2015

Carol Evans
Justice of the Peace No 142865
Mudgee Police Station
94 Market St, Mudgee NSW 2850

[¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Jackie Booth, Chief Operating Officer of Zagame Corporation, say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Zagame Corporation

3. I am the Chief Operating Officer of Zagame Corporation ('Zagame's'). I have been employed by Zagame's for approximately 18 years.
4. I have been involved in the hospitality industry for over 20 years.
5. Zagame's is synonymous in Australia with family dining and entertainment and more recently in family holiday experiences.
6. Zagame's was founded in 1971 and has grown to include the following venues:
 - a. Zagame's Gold Point Club Ballarat;
 - b. Zagame's Caulfield Club Hotel;
 - c. Zagame's Edwards Lake Hotel;
 - d. Zagame's Boronia Hotel;
 - e. Spice Market;
 - f. Zagame's Downtowner; and
 - g. Zagame's Berwick Springs Hotel.
7. The services offered by the venues include accommodation, a nightclub, bistros, gaming facilities and function facilities.
8. Zagame's core drive is the desire to cater to families. Five of our venues include a 'Zagame's Kid's World' play area which are idea for children between the ages of 2 and 12 years old in an attempt to remove the hassle and stress of dining with energetic children which provides a welcome distraction for parents.

9. Over the course of the next two years, Zagame's is looking at considerable capital expenditure to rejuvenate and update each of the venues. This is to ensure that all Zagame's venues remain family friendly and offer the best range of facilities to patrons.
10. Zagame's employs approximately 400 staff consisting of:
 - a. Ballarat:
 - i. 15 full time staff members;
 - ii. 3 part time staff members; and
 - iii. 32 casual staff members.
 - b. Berwick:
 - i. 22 full time staff members;
 - ii. 1 part time staff member; and
 - iii. 72 casual staff members.
 - c. Boronia:
 - i. 15 full time staff members; and
 - ii. 63 casual staff members.
 - d. Caulfield:
 - i. 12 full time staff members; and
 - ii. 44 casual staff members.
 - e. Downtowner:
 - i. 25 full time staff members;
 - ii. 2 part time staff members; and
 - iii. 15 casual staff members.
 - f. Reservoir:
 - i. 23 full time staff members;
 - ii. 3 part time staff members; and
 - iii. 46 casual staff members.
 - g. Grandco:
 - i. 6 full time staff members; and
 - ii. 50 casual staff members.

11. All staff are covered by the Award with the exception of our Venue Manager's
12. There is no enterprise agreement.

Accommodation Hotel

13. The dining facilities and bar area is closed on all public holidays at the accommodation hotel.
14. If possible, rooms are not cleaned on public holidays. They are left until the next normal day of trade to avoid the cost of penalty rates. This cannot occur when there are back to back public holidays, for example because the Victorian Government declared Easter Saturday and Easter Sunday to be public holidays there were four public holidays in a row this year.
15. The Hotel runs on skeleton staff across all departments on public holidays due to the high cost of penalty rates.
16. The bar is not open on Sundays.

Nightclub

17. Our nightclub operates on reduced hours on public holidays due to the high penalty rates that are imposed.
18. Where possible, we only open the nightclub on the eve of a public holiday and then close for the holiday. This means that we only incur three hours of the high penalty rates imposed on public holidays.
19. Normally we run the nightclub with a higher ratio of security staff than required by legislation. However, on public holidays we reduce this to the minimum required by legislation to avoid the additional cost of penalty rates.

Bistro

20. One bistro was forced to close on Good Friday 2015 due to the high cost of penalty rates.
21. All other bistros reduced trading hours to reduce rostering hours
22. An analysis of costs following Easter 2015 showed that the bistros ran at a considerable loss. Accordingly, if penalty rates remain the same we will need to consider closing the bistros across future Easter periods.
23. Management and salaried staff are rostered on for the bulk of the day on Sundays and public holidays. Due to the high cost associated with rostering casuals on due to the higher penalty rate they attract, these staff members are only used to supplement staff if there are not enough salaried staff.
24. None of our bistros are open on Christmas Day as it is not economically feasible to do so given the additional cost associated with penalty rates.

AHA Penalty Rates Proposal

25. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
26. If the AHA's proposal is accepted, it would be possible to roster casual staff members to work on public holidays so that full time staff are not required to work. This would mean that full time staff can take public holidays off to spend with their families.
27. It may also mean that we could keep facilities such as the bistros open on public holidays. This would mean additional hours for staff, especially casual staff members.
28. As mentioned above, Zagame's is considering considerable capital expenditure to rejuvenating our facilities. If the AHA's proposal was accepted, it would be possible to improve facilities for our patrons.

#SWORN #AFFIRMED

At 1 Little Collins St
Melbourne

On 29 June 2015

Signature of deponent

[Handwritten signature]

Name of witness

JOHN SWEETMAN

On [date]

29 JUNE 2015

Address of witness

11 DALE STREET, BULLEEN VICTORIA

Capacity of witness

Justice of the peace

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent. [OR, delete whichever option is inapplicable]
]
- 2 I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]

Identification document relied on (may be original or certified copy)^[2]

Signature of witness

[Handwritten signature]

A JUSTICE OF THE PEACE FOR VICTORIA
REG. No. 9983
JOHN COLIN SWEETMAN
11 DALE STREET, BULLEEN, VIC. 3105

^[2] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Jim Ryan, Hotel Owner say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

The Gippsland Hotel

3. I am the owner/Manager of the Gippsland Hotel.
4. The Gippsland Hotel is located at 153 York Street, Sale, Victoria, 3850.
5. Sale is a regional town located in the Gippsland region of Victoria approximately 212km from the Melbourne CBD.
6. While not a high tourist area, the Hotel services many holiday makers travelling to the region.
7. I have owned and operated the Hotel since 2005.
8. I have been in the hotel industry for 43 years.
9. The Hotel consists of a public bar, 90 seat bistro, beer garden, drive-in bottle shop and 10 accommodation rooms.
10. The Hotel is open the following hours:
 - a. **Hotel**
 - i. 7 days – 11:00am till late
 - ii. Closed on Christmas Day and Good Friday
 - b. **Bottle Shop**
 - i. Monday - Thursday: 10:00am - 10:00pm
 - ii. Friday - Saturday: 10:00am - 11:00pm
 - iii. Sunday: 11:00am - 9:00pm
 - iv. Open Good Friday

v. Christmas Day: 10:00am - 10:00pm

c. Bistro

i. Monday - Saturday: 6:00pm - 9:00pm

ii. Sunday: 6:00pm - 8:30pm

iii. Public Holidays: Closed

11. The Hotel has a reputation for being a great local Hotel that offers a friendly environment where one can come in and relax with a great meal and beer.

Staff

12. I employ:

a. 4 full time employees (2 managers and 2 full time chefs); and

b. 20 casual employees.

13. With the exception of myself and my wife, all of the employees are covered by the Award.

14. The employees are under the following Award classifications:

a. Grade 2 – 15 employees

b. Grade 3 – 5 employees

15. There is no enterprise agreement.

16. Some staff work on Sundays and public holidays because it suits them, mainly casual employees who are university students or parents with partners at home who are able to look after the children.

Sundays and Public Holidays

17. Due to the penalty rates imposed on a public holiday, no casual staff are rostered on. My wife, the salaried managers and I work instead. The bistro is closed on public holidays due to the increased cost caused by penalty rates.

18. This year, 2015, in addition to Good Friday and Easter Monday, Easter Saturday and Easter Sunday were declared public holidays in Victoria. That's four days of public holiday wages in a row. Over the four days of Easter 2015 the bistro was closed and the bottle shop hours were reduced. This reduced trading will continue for future public holidays if penalty rates remain at their present levels.

19. The base rates for casual food and beverage attendants grade 2 will increase on 1 July 2015 and consequently when the penalty rates are applied the hourly rate for work on public holidays will increase. That will mean that I will have to consider a further reduction of trading hours on public holidays as it will not be economically viable to open.

AHA Penalty Rates Proposal

20. I am aware that the AHA is seeking an amendment to the penalty rates to:
- a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.

it would mean that we would not need to reduce trading hours on Public holidays and Sundays.

21. If the AHA's proposal was accepted, it would mean that I would not need to reduce the trading hours on public holidays. It may also be viable to open the bistro on public holidays.
22. This would in turn mean that I could offer more hours to casual staff members.
23. If the proposal is not accepted, the staff will continue to miss out, together with the customers as a result of our reduced service, given the cost to open and not operate at a loss.

#SWORN #AFFIRMED

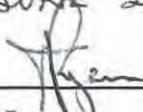
At [place]

TULLAMARINE

On [date]

29th JUNE 2015

Signature of deponent



Name of witness

JOHN SWEETMAN

On [date]

29th JUNE 2015

Address of witness

11 DALE STREET, BULLEEN VICTORIA

Capacity of witness

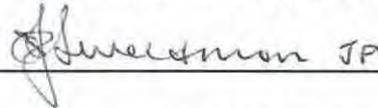
[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 - ~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 - ~~#I have confirmed the deponent's identity using the following identification document: —~~

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



A JUSTICE OF THE PEACE FOR VICTORIA
REG. No. 9983
JOHN COLIN SWEETMAN
11 DALE STREET, BULLEEN, VIC. 3105

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Joanne Blair, Director say on oath/affirm:



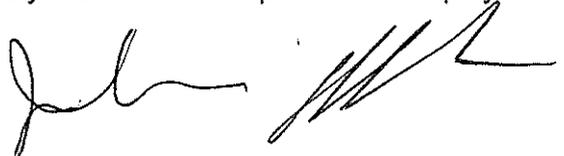
1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am a Director of Zamovisa Employment Pty Limited which is a fully owned subsidiary of Zamovisa Pty Ltd and provides employees to Zamovisa Pty Ltd and its other subsidiary entities. I am also a Director of Zamovisa Pty Ltd and each of its subsidiary entities. Zamovisa Pty Ltd fully owns three other subsidiary entities that trade as
 - (a) The Milestone Hotel at 195 Macquarie St, Dubbo in New South Wales.
 - (b) The Milestone Hotel in Leichhardt (previously known as the Gladstone Park Hotel); and
 - (c) The Milestone Hotel in Kingswood (previously known as the Kingswood Hotel).
4. The Milestone Hotel in Dubbo is open from Monday to Saturday 8:00 am to 2:00 am and Sundays from 10:00 am to 12:00 pm.
5. The Hotels in Leichhardt and Kingswood are open from 9am to 3am Monday to Saturday, and 10am to 10pm on Sundays.
6. I employ 60 people across the group. 18 are full time and the remainder are casuals employed at Grade 1 through to Grade 5 under the Award. The full time employees are management and chefs, and all employees other than the Licensee are covered by the Award. There is no enterprise agreement.

Penalty Rates

7. We trade every department at Dubbo on public holidays but increase our prices in the bistro by 20%. As there are a lot of tourists in Dubbo, and it is busy on Public Holidays, we are fortunate that we do not receive negative feedback from the surcharge.
8. We could not have such a surcharge in Leichhardt and Kingswood on the other hand as customers would not pay it. As the current penalty rates make it expensive to employ



staff in the labour intensive area of the bistro we choose to close the area down on a public holiday and simply provide bar and bottle shop service.

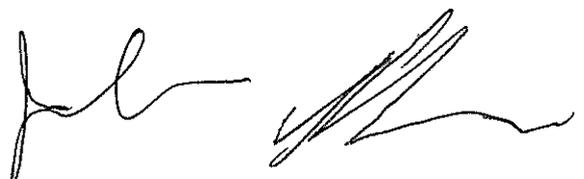
9. Often we will get a family or group of visitors wander into our Sydney Hotels on a public holiday enquiring whether lunch is available, and we have to turn them away.
10. We tried opening the bistro in Leichhardt on a public holiday, and we would continue to do so at both Sydney Hotels if the business paid less in penalty rates, but I estimate we would be paying around \$1500 in wages for an extra \$500 in sales.
11. For that reason we stopped opening the bistro in Leichhardt on public holidays. We have never opened the bistro at Kingswood on those days.
12. The bar is not as labour intensive as the kitchen and the bottle shop is simply an extension of the bar so no additional people are required to work there.
13. We roster on management, rather than our casual staff, to work on public holidays as they are efficient which is important when you have less staff working. They are also less expensive as they are not covered by the Award and I can give them another day in lieu that does not cost as much.
14. Casual employees work on a Sunday, and it is my experience that they will work regardless of whether it is a Sunday or a public holiday. That is because a number of them, particularly in Sydney, are studying, working on Sundays and public holidays suits their schedule. At least 80% of my casual staff are university students, about another 10% have other full time employment, working casually at the hotel is their second job. Both of these types of employees can only work nights, weekends and public holidays. Many prefer not to work late nights as it is too tiring for them to either attend morning classes or their day job whichever is applicable. Most prefer to work weekends and public holidays.

Impact of the proposed change to penalty rates

15. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would open the bistro on a public holiday and extend the hotel and bistro trading hours on a Sunday at our Sydney Hotels. The impact on the business of additional public holidays being declared would also be reduced in that regard.

16. I would also consider having live music or promotions at all hotels on a Sunday with money saved from labour costs. Once wages are paid on a Sunday there is no value in providing entertainment such as music or trivia.



SWORN

At Sydney

On 29 June 2015

Signature of deponent



Name of witness

PHILLIP JOHN RYAN

Address of witness

15/131 MACQUARIE STREET SYDNEY.

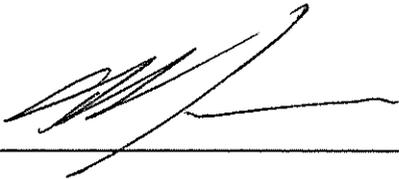
Capacity of witness

Justice of the peace for NSW #194184

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

Signature of witness



IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, John Andrew Dowd, Hotel Owner say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would have prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Lightning Ridge Outback Resort

3. I am the owner of Croote Pty Ltd which trades as Lightning Ridge Outback Resort & Caravan Park located at 1 Oynx Street, Lightning Ridge, New South Wales 2834.
4. The Resort consists of:
 - a. Caravan park;
 - b. Motel facilities;
 - c. Bistro Bar and Grill
 - d. Hotel bar (the only hotel bar in Lightning Ridge) with lounge and public bar;
 - e. Outdoor entertainment area and beer garden;
 - f. Gaming facilities;
 - g. Bottleshop;
 - h. Outdoor swimming pool; and
 - i. Children's playground.
5. The accommodation facilities are open every day of the year. The Hotel is open all public holidays other than Christmas Day.

Lightning Ridge

6. Lightning Ridge is in the Walgett Shire near the southern border of Queensland. It is approximately 730km north west of Sydney.
7. The Lightning Ridge area is renowned for mining black opals and other gemstones.
8. An annual Gem festival is held in Lightning Ridge.

9. Lightning Ridge is very much dependent on tourism. Summer is very hot and therefore peak season is during winter.

Staff

10. I employ 15 staff members. There is one full time salaried staff member and the remaining 14 employees are casuals.
11. All staff are covered by the Award.
12. The staff are the following classifications under the Award:
 - a. Level 1 Food and Beverage Attendant Grade 1
 - b. Level 1 Food and Beverage Attendant Grade 2
 - c. Level 2 Clerical Grade 1
 - d. Level 2 Gardener Grade 1
 - e. Level 1 guest service grade 1
13. There is no enterprise agreement.
14. It is difficult to find staff. I therefore employ a number of backpackers when they travel through Lightning Ridge.

Penalty Rates: Weekends and Public Holidays

15. Given the penalty rates imposed on public holidays, I always work and also have family members come and assist so that I can reduce the number of staff members required.
16. Due to the penalty rates, I had to reduce the Hotel's trading hours on Sundays and public holidays in addition to varying the usual business hours of the bottle shop. The bottle shop now opens later in the day and closes earlier in the evening leaving the members of the community without this service in the evening.
17. I would like to offer my patrons a full service on public holidays but I am restricted due to the cost of penalty rates.
18. Live music is no longer offered on Sundays and public holiday due to the high penalty rates.
19. I feel it is my obligation to continue to provide the community with the Hotel's services generally. Fulfilling this obligation has been extremely difficult especially when I am faced with the added pressures of the high cost of wages due to penalty rates in the backdrop of a community that has been negatively impacted by the effects of drought. The community ultimately suffers the consequence of having fewer services available to them and a limited prospect of being employed by the Hotel.
20. The turnover of the Hotel has been negatively impacted by the cost of penalty rates. As a cost saving measure, I am working 12 to 14 hours a day in lieu of rostering staff.

Previously, when it was affordable, I would employ staff in managerial positions to run the business on Sundays and public holidays.

21. With penalty rates at their current level, and notwithstanding other employee related costs, I have been deterred from investing in the growth of the Hotel which has consequently effected the Hotel's job growth.

Impact of the proposed change to penalty rates

22. If penalty rates were those being sought by the Australian Hotels Association:

- a. Sundays – 150%; and
- b. Public Holidays – 225% full time and part time and 175% casuals,
- c. Additional Holidays – 200% for full time and part time and 125% casuals

the Hotel would likely offer more services to patrons including full accommodation services as well as live entertainment on Sundays and public holidays.

23. I would like to invest in the growth of the Hotel and expand its patronage base by offering family style events on some Sundays. If the penalty rates sought by the AHA were accepted, I would be able to do this. Further, I would employ a casual, as a courtesy bus driver, to drive patrons to and from our Hotel. This initiative in itself would be beneficial to the community and would encourage community interaction.

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness



Dorinda Augustus Walker
420 Howick St Burwood 2795
[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent.
- 2 #I have known the deponent for at least 12 months.

Signature of witness

Identification document relied on (may be original or certified copy)¹
 JP (104582)

[¹ "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, John Clarkson, Director of Katie 180 Pty Ltd say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

1. I am the Director of Katie 180 Pty Ltd which operates the Tattersall's Hotel located at 180 Margaret Street, Toowoomba in Queensland.
2. Tattersall's Hotel is open 10am to 8.30pm Monday to Thursday, 10am to 3am Friday and Saturday, and Sunday we usually close unless there is a public holiday the following day (such as the Queen's birthday long weekend) when we will open the nightclub.
3. Our Hotel has a bistro, a gaming area and nightclub style entertainment on Saturday night.
4. I employ 25 people. 22 are casual, and I also employ one full time staff member. There is no enterprise agreement. My casual employees are Grade 2-3.
5. A large percentage of the casuals I employ prefer evening and weekend work. That is because they are employed elsewhere Monday to Friday or are studying at university.
6. I roster my staff based on demand. Toowoomba is a typical regional town in that we are not particularly busy Monday to Thursday before and after lunch. On the weekend we are busier but there is downtime before lunch and between lunch and dinner.
7. I therefore roster most of my casuals over lunch from 11.30am to 2.30pm and in the afternoon between 2.30pm and 5.30pm I personally work these shifts.

Penalty Rates

8. With the exception of Sunday nights before a public holiday, we do not open the Hotel on public holidays. We don't offer additional attractions on public holidays, so they tend to be a quiet time for our Hotel, and the cost of penalty rates on those days does not make it worthwhile opening.

9. Similarly, the paying wages paid to our staff on a Sunday is too high to make it worthwhile opening.
10. On the rare occasion the Hotel is open I will shut the second bar and the main bar will only open in the evening.
11. We would need to roster staff across all areas of the Hotel (that is, the gaming room, the bistro and the bar/nightclub) to make it worthwhile opening on Sundays and public holidays. I have considered opening certain areas of the Hotel on those days but we operate as a Hotel, not a bar, and we need all areas open to trade normally.

Impact of the proposed change to penalty rates

12. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

we would consider opening on Sundays and public holidays. There are 140,000 people in Toowoomba, and although tourism is low on public holidays there are people who would come into the Town Centre on a Sunday or public holiday.
13. As noted above, on the day before a public holiday I will often open the nightclub. Those days are sometimes additional public holidays, and if penalty rates were those proposed by the AHA I would almost certainly open my entire business (not just the nightclub) on additional public holidays.
14. That would mean approximately eight (8) more shifts for my staff.

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness

Toowoomba

[Signature]

RHONDA SUSAN THEODOSIS

1160 MARGARET STREET TOOWOOMBA

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
~~#I have confirmed the deponent's identity using the following identification document: →~~

DRIVER LICENCE 065760633 QLD

Identification document relied on (may be original or certified copy)²

Signature of witness

R. Theodosis (JP QUAL) 69301

[¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, John Dabner, Director and Manager of Tall Timbers Tasmania, say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Tall Timbers Hotel

3. I am the Director and Manager of Tall Timbers Tasmania which is located in Smithton, Tasmania.
4. Smithton is a regional suburb located approximately 420km north west of Hobart and is the last stop before Arthur River where the Tarkine wilderness begins.
5. The area is a high seasonal tourist area.
6. The Hotel has received a number of awards including the following In 2014:
 - a. Winner - Tasmanian Hospitality Association Best Regional Hotel of the Year;
 - b. Winner - Tasmanian Hospitality Association Best Mid Range Accommodation;
 - c. Winner - Tasmanian Hospitality Association Best Sports Bar; and
 - d. Winner - Cradle Coast Regional Tourism Standard Accommodation.
7. The Hotel has been operating for 25 years and comprises:
 - a. 67 apartment style accommodation rooms;
 - b. 2 full size tennis courts;
 - c. BBQ area;
 - d. Business/conference and wedding facilities;
 - e. Gaming room;
 - f. Bistro and two bars;
 - g. Bottleshop;
 - h. Recreational area which includes pool and gym facilities.



8. The Hotel employs 42 staff members comprising:

- a. 11 full-time;
- b. No part-time; and
- c. 31 are casuals.

9. All staff are covered by the Award.

10. There is no enterprise agreement.

Sundays and Public Holidays

11. Due to penalty rates, many departments operate on reduced hours on public holidays.

12. The normal trading hours for a Friday is 11.00am until 11.00pm and Monday is 11.00am until 10.00pm.

13. Due to the penalty rates imposed on public holidays, over Easter the Hotel had to reduce its trading hours for Good Friday and Easter Monday to 12.00pm until 8.00pm. To open beyond this would not have been commercially viable.

14. Salaried staff are rostered to work on public holidays in an attempt to reduce wage costs. Casual staff members are only used during meal service times which are 12.00pm until 2.00pm and from 6.00pm until 7.30pm.

15. A surcharge of \$3.00 per person dining is added on public holidays. However, despite charging this surcharge, the catering department still ran at a loss over Easter because of the penalty rates that had to be paid.

16. The Hotel operates with limited reception and accommodation staff on public holidays.

17. As the Hotel is in a tourist area, reducing the hours on a public holiday means that consumer expectations are not met.

18. Due to penalty rates imposed on public holidays, no function bookings are accepted for a public holiday.

AHA Penalty Rates Proposal

19. I am aware that the AHA is seeking an amendment to the penalty rates to:

- a. Sundays – 150%; and
- b. Public Holidays – 225% full time and part time and 175% casuals; and
- c. Additional Holidays – 200% full time and part time and 125% casuals.

20. If the AHA's proposal was accepted, we would be able to accept function bookings on public holidays.

21. Additional shifts would be offered to casual staff which would mean more security and reliability of income for these staff members.

#SWORN #AFFIRMED

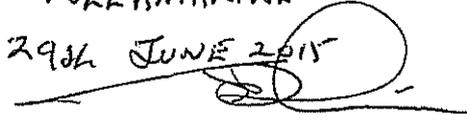
At [place]

TULLAMARINE

On [date]

29th JUNE 2015

Signature of deponent



Name of witness

JOHN SWEETMAN

On [date]

29th JUNE 2015

Address of witness

11 DALE ST, BULLEEN VIC

Capacity of witness

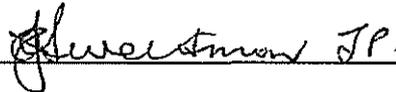
[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [4]~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
~~#I have confirmed the deponent's identity using the following identification document:~~

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



A JUSTICE OF THE PEACE FOR VICTORIA
REG No 9983
JOHN COLIN SWEETMAN
11 DALE STREET, BULLEEN, VIC. 3105

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Kasie Ferguson, Manager say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am Owner and Manager of the Railway Hotel located on May Street in Parkes in New South Wales.
4. Parkes has a population of around 12,000 people and there are 8 Hotels, 2 bowling clubs, an RSL and a Leagues Club.
5. The Railway Hotel is open 7 days a week from 10am until 10 or 11pm Monday to Thursday, 10am until midnight or 1am on Friday and Saturday and 10am until 10pm on Sunday.
6. The Hotel is open every public holiday except for Christmas Day and Good Friday.
7. I employ around 15 or 16 people at the Railway Hotel. Of those, 5 are casual at Grade 2 Food & Beverage Attendant and 1 HIGA Cook (tradesperson) Gr 5 under the Award. The Hotel is managed by myself, Bianca (the other owner) and a supervising chef. All of our employees, including management, are covered by the Award. There is no enterprise agreement.

Penalty Rates

Public Holidays

8. We open on most public holidays except Christmas Day and Good Friday, as I feel there is a community expectation that we do so. People want somewhere to go on their day off. Most businesses (including pubs) around Parkes will usually close on public holidays, and if we did the same there would be nowhere for people to socialise and meet for a meal and a drink.
9. If a public holiday falls on a Monday then generally Bianca and I will work a double shift, and our supervisor will also work and accrue a day in lieu. For a number of my staff, particularly those working in the kitchen, Monday and Friday are their usual days

to be at work. That poses a problem over the Easter period as I have to roster those employees on, and if it is not a busy day we can have excess staff.

10. The problem with being open on a public holiday in somewhere with a transient population like Parkes is that people will often leave the town over those periods. If the weather is nice people will go camping or skiing. As the clientele is significantly reduced the increased penalty rate wage costs are not able to be offset by earnings.
11. We have a restricted number of casual employees working on public holidays, usually over the dinner shift. Casuals will generally volunteer for those shifts due to the money they earn working a public holiday, although not all of them are keen to work as Monday is not a day they would usually be rostered on.
12. Although it is expensive to do so, we sometimes organise entertainment at the Hotel to attract patrons. This year for example we organised for a DJ from Sydney to play at the Hotel over the Easter long weekend, however due to the cost of paying penalty rates four days in a row and a significantly reduced number of patrons so we suffered a financial loss.

Sundays

13. Due to the cost of wages we never used to open the Hotel on a Sunday. However Bianca and I are actively attempting to build our patronage, and we believe opening on a Sunday is important to attract regular customers. That is particularly so when other pubs in the town are closed.
14. There is also a community expectation that we will be open on a Sunday so there is a place for people to meet and socialise.
15. We do not roster many casual employees to work on a Sunday and try and run the Hotel with the minimum number of employees possible. Generally me, Bianca and a supervising manager will work and we will roster a casual to work over dinner. One of the girls from the kitchen will also offer to help out on the bar for part of her shift as well.
16. On Saturday on the other hand, the minimum number of bar staff that we have rostered on is around 6.

Evenings

17. We usually roster casual employees to work after 6pm. 4 of our casuals either study or have second jobs in town and so the best time for them to work is during the evening.

Impact of the proposed change to penalty rates

18. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals,
 - c. Additional Holidays – 200% for full time and part time and 125% casuals

I would not have to work on Sundays and public holidays as I would like to have a day off. I would also offer more work to my employees as currently it is too expensive for me to do so.

19. If penalty rates were those proposed by the AHA I would likely provide a broader range of entertainment to patrons on Sundays and public holidays such as live music.
20. In relation to additional public holidays, if penalty rates were those proposed by the AHA I could roster my casual employees on as per normal, rather than not rostering them, and provide usual service on that day.

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness



Sharyn Ware
1 Junction St Parkes 2870.
[~~#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public~~]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Signature of witness

Identification document relied on (may be original or certified copy)²



124495.

¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Keith McCallum, Hotel Owner say on oath/affirm:



1. I make this affidavit in support of a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

The Lonsdale Hotel

3. I own and manage the Lonsdale Hotel which is located at 25-27 Sherriffs Road, Lonsdale, South Australia. I have been the Manager and Partner at the Hotel for over 28 years and have owned the Hotel with my wife for the past 6 years.
4. The Lonsdale Hotel has:
 - a. A Bistro;
 - b. Sports bar;
 - c. Gaming Room;
 - d. Bottleshop; and
 - e. Motel facilities.

Staff

5. I employ **Forty three** of staff which includes:
 - a. **Ten** of full time; 6 x Food & Beverage Supervisor, 2 x Cook Grade 5, 2 x Cook Apprentice
 - b. **Zero** of part time; and
 - c. **Thirty three** of casuals. 2 x Food & Beverage Supervisor, 1 x Clerical Grade 3, 25 Food & Beverage Grade 2, 1 X Kitchen Attendant Grade 3, 4 x Kitchen Attendant Grade 2
6. A total of 19 casuals are students. The age group is from 16 to 30 years and most work evenings and weekends. Most of the other 14 casuals work at the Lonsdale Hotel as their only job but some have a second job. Some of these employees have children and prefer to work hours around caring for their children. Some commence work at

1 of 3

Keith McCallum
28th June 2015

5.30am and some at 8.30pm and work throughout the night until 6am. Many casual shifts commence at 6pm.

Sundays and Public Holidays

7. Due to the introduction of increased weekend and public holiday penalty rates for casual staff in South Australia from 1 January 2015 and the impact this has had on wage costs, we are no longer able to offer casual staff as many hours.
8. Historically, full time staff members did not work on Sundays or public holidays.
9. Half of our full time staff members now work on Sundays.
10. As penalty rates imposed on public holidays is so high, my family including myself, my wife, my son and my daughter all work on public holidays so that not as many staff members are required.
11. Full time staff are now rostered to work on public holidays given the higher penalty rates required to be paid to casual staff members. This has resulted in reduced hours available for casual staff.
12. Given the cost of penalty rates on public holidays, if it is possible, motel rooms are not cleaned on public holidays and wait until the next day. This can be a problem if we have last minute bookings and makes the staff working the next day busier.

AHA Penalty Rates Proposal

13. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
14. If the AHA's proposal was accepted, I would be able to roster more staff to work on public holidays so that my family are not required to work every public holiday.

22-3

KPMcLennan

28th June 2015

S.P.

SWORN

At Lonsdale

On 28th June 2015

Signature of deponent

KEM McEwan

Name of witness

TREBOR EVANS

On

28th June 2015

Address of witness

ANALISA GO HINDMARSH SQUARE ADELAIDE SA

Capacity of witness

Justice of the peace

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

:

[Signature] S.P. 11939

Identification document relied on (may be original or certified copy)^[2]

A Justice of the Peace in and for the State of South Australia

Signature of witness

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

3 of 3

KEM McEwan
[Signature] S.P.
28th June 2015

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Mel Tait, General Manager for Murrumba Downs Tavern say on oath/affirm.

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the General Manager for Murrumba Downs Tavern on the corner of Dohles Rocks and Ogg Roads, Murrumba Downs in Queensland.
4. In addition to Murrumba Downs Tavern, I am part owner of the Horse and Jockey in Warwick and oversee and assist with operations at The Railway Hotel in Goondiwindi.
5. The Murrumba Downs Tavern is open 10am till midnight on Monday to Thursday, 10am until 1pm on Friday and Saturday and from 10am until 12pm on Sundays.
6. I employ 40 people at the Tavern – around 23 casuals employed at Grade 2, 13 permanent employees and 4 salaried employees. Of my casuals around 15 are students. There is no enterprise agreement.

Effect of Penalty Rates

Public Holidays

7. The only public holiday we do not open is Good Friday. On all public holidays we trade our ordinary hours and provide full services.
8. We remain open on public holidays as we like to offer our customers consistency of service. People expect us to be open on those days – in fact, we often get telephone calls from patrons on public holidays enquiring whether we are open.
9. Also, there are around 4 competing hotels within a 5 kilometre radius of the Tavern, all of whom are part of major companies. Those venues tend not to trade on public holidays, and if we do not trade as well there is a risk our regular customers will not differentiate us from those other venues and may even use them in preference to ours.
10. We do not have a surcharge for consumers on public holidays. If we charged extra for our services it would exclude a large number of our customers, and we would have

reduced clientele. There is also a risk those customers will go somewhere for a meal and a drink where they are not charged extra.

11. The fact there is no surcharge means there is no additional earnings (however minimal) to offset the increased cost of wages on a public holiday.
12. I tend to roster my management staff on public holidays. They are less expensive as the Award does not apply, and they are also more efficient workers.

Sundays

13. I usually roster my casual employees to work Sundays as they are eager to earn the extra money. Having said that, even if the rates were reduced on those days I believe the demand for shifts would still be as great as the students have other commitments during the week and they work Sundays because that's when they are available.
14. The nature of the hospitality industry is that we operate seven days a week and into the evening. We are therefore uniquely placed to offer employment to casuals that are students or mothers, and who are unable to work during the week.
15. With penalty rates as high as they are in the Award, I feel as if I am being penalised for offering unique employment opportunities to those in the local community.

Impact of the proposed change to penalty rates

16. If penalty rates were those being sought by the Australian Hotels Association:

- a. Sundays – 150%;
- b. Public Holidays – 225% full time and part time and 175% casuals; and
- c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would have longer shifts for my existing permanent employees, and extra money available to employ more permanent and casual employees. In some instances that could mean an increase of over 10 hours of work. I would like to train up those permanent employees to work within the business.

17. If penalty rates were those proposed by the AHA I would also offer increased services to patrons on public holidays.
18. The level of our patronage on those days is always uncertain, however currently you are guaranteed to pay staff in excess of \$50 an hour to work. For that reason I will err on the side of caution and save money by not providing fun activities to customers. If penalty rates were those proposed by the AHA I would have a live band playing at the Tavern on public holidays or, for example, organise an Easter egg hunt for families at Easter.

#SWORN #~~AFFIRMED~~

At [place] Magistrates Court, Pine Rivers

On [date] 26 June 2015

Signature of deponent

[Handwritten signature]

Name of witness PHYLIS LORRAINE HALL

On [date] 26 June 2015

Address of witness

Capacity of witness

"JPs in the Community" Program
c/- Department of Justice & Attorney-General
Lvl. 6, 154 Melbourne Street
South Brisbane QLD 4101
Phone: 1300 301 147



[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

QUEENSLAND DRIVER LICENCE 079 893 871
Identification document relied on (may be original or certified copy)^[2]

Signature of witness

[Handwritten signature]



[1] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[2] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

On 29th June 2015, I, Patrick Gallagher, Owner of the Gallagher Group of Hotels affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the owner of the Gallagher Group of Hotels located at Suite 1, 271 Pacific Hwy North Sydney in New South Wales. The Company owns:
 - (a) Le Pub on King Street in Sydney;
 - (b) Jacksons on George Street in Sydney;
 - (c) Criterion Hotel on Pitt Street in Sydney;
 - (d) The Belgium Beer café on Harrington Street in Sydney;
 - (e) The Union Hotel in North Sydney;
 - (f) PJ Gallagher's in Enfield, Springwood, Sydney CBD, Leichardt, Moore Park and Circular Quay in Sydney; and
 - (g) The Liverpool Hotel in Liverpool, Sydney.
4. The Gallagher Group employs 350 people. There is no enterprise agreement.

Penalty Rates

5. Our Hotels open on weekends and public holidays but the services offered are reduced.

Public Holidays

6. We used to close Le Pub on public holidays due to the cost of paying penalty rates to employees, but the lockout laws in Sydney have had such a negative impact on the profitability of all of our Hotels we are trialling ways to make sure we keep customer numbers high.
7. We therefore decided to open just the bar area of Le Pub in an attempt to re-boost business, even though it means we are not making a profit as the wages I have to pay do not offset takings.



8. Similarly, at Jacksons we close the upstairs area on Sundays and public holidays in an attempt to reduce wage costs. We also split up the gaming room so it is confined to one floor and we do not have to employ people to work upstairs.
9. At the Entertainment Quarter we restrict the amount of entertainment provided to patrons on public holidays, so live music is not provided.
10. Across all Hotels we reduce staff numbers on public holidays, which means some employees that will usually work on a day a public holiday falls will miss out on a shift.
11. We also engage management staff who are not covered by the Award on those days to work behind the bar as they are more efficient. That means those employees carry an additional burden on public holidays as they are also required to work their usual shifts during the week.

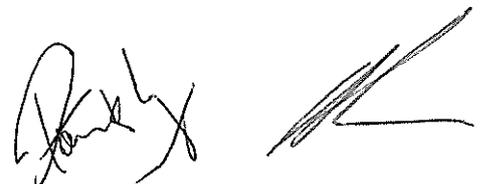
Sundays

12. We also reduce staff numbers on a Sunday, and managers will work longer shifts. Our Hotels will open an hour later than normal on that day in an attempt to reduce the costs associated with paying penalty rates.
13. The casuals that we do roster on to work on Sundays and public holidays are very keen to obtain those shifts. Given the location of our Hotels, most of our casual employees are students or those with second jobs and it suits them to work weekends and public holidays.
14. My labour costs are so high that I have designed my business with the objective of minimising those costs. I have spent money in every Hotel in an attempt to make them single-bar operations, with kitchens serving large quantities of food and menus designed in such a way that they require less staff.
15. In the most recent acquisitions made by the Group, we demolished bars with a view towards making them single bar / single restaurant establishments. It is simply not viable to run a profitable Hotel with 3 or more bars.

Impact of the proposed change to penalty rates

16. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals;
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would consider offering more work in my Hotels. We would open for longer hours, and employ more staff, on public holidays and Sundays. Furthermore, having regard to the number of casual employees that we have, the AHA proposal means that an increased number of my staff can be rostered to work additional holidays as those would trade like regular days.

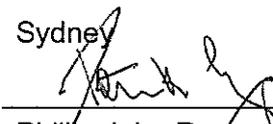


17. It is disappointing that due to the high cost of labour I am focused on streamlining operations and reducing the number of employees I have.

AFFIRMED at

Sydney

Signature of deponent



Name of witness

Phillip John Ryan

Address of witness

15/131 Macquarie Street, Sydney NSW 2000

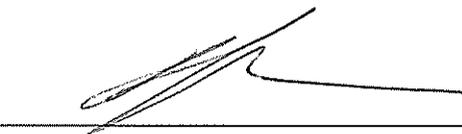
Capacity of witness

Justice of the peace for NSW #194184

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 I saw the face of the deponent.
- 2 I have known the deponent for at least 12 months.

Signature of witness



IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Peter Johnston, Owner of the Ulster Hotel say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

1. I am an owner of Ulster Pty Ltd located at 13 Warwick Road, Ipswich in Queensland, the entity that owns the Ulster Hotel.
2. The Ulster Hotel was established in 1910 and is heritage listed. My wife's grandparents assumed control of the Hotel in 1934, and my wife's parents subsequently ran it for 58 years. In 2011 the Hotel was significantly damaged by the Queensland floods and we have been renovating the building since that time.
3. My daughter is the fourth generation from our family to have worked in the Hotel.
4. The Ulster Hotel is open from Tuesday to Saturday from 11am until late. We do not open on a Sunday.
5. I employ 2 full time and 8 casual employees at Grade 2, all of whom are covered by the Award. There is no enterprise agreement. My full time employees are 2 kitchen staff.
6. I roster staff based on demand. For my business Saturday night is the busiest time and so we have more casual employees front of house.

Penalty Rates

7. Due to the penalty rates the Hotel does not open on public holidays. We do open for lunch on ANZAC Day as this is an important community day, however my family and I will normally work as we cannot afford to pay casual staff.
8. Even though the Hotel is not open on Sundays and public holidays I am still required to pay overheads such as electricity and rent, which is a cost to my business.
9. I would like to be open on those days to provide a service to the community. Even though we are not open, I am often at the Hotel on a Sunday doing paperwork or

performing maintenance duties. People often drop by and ask if they can come in for lunch, and they do not understand why we are not open.

10. As it has been in existence for so long the Ulster Hotel has a proud heritage in Ipswich, and people from the community know us as somewhere they can meet and enjoy good food and a drink. Lunch on a Sunday is very important in a community like Ipswich, and it is disappointing that due to the penalty rates the cost of employing people to work on that day is too high we cannot offer that service.
11. In 2011 we trialled running a breakfast menu on Sunday morning but it was stopped after 6 or 9 months. Although it was busy, the money we made from selling breakfast and coffee was not able to offset the cost of employing people on that day.
12. It is becoming difficult to keep our Hotel operation due to penalty rates, increasing base wages and overheads. If it were not for the fact that my wife and I have other, full time jobs we would not be able to afford to keep the Hotel open.

Impact of the proposed change to penalty rates

13. If penalty rates were those being sought by the Australian Hotels Association:

- a. Sundays – 150%;
- b. Public Holidays – 225% full time and part time and 175% casuals; and
- c. Additional Holidays – 200% for full time and part time and 125% casuals,

we would reconsider opening the Hotel on Sundays and public holidays. In that case I would have to employ more people to work, which would be an added benefit to the community and help ensure the Hotel is kept open.

14. I would offer work to my casual employee's on additional holidays.
15. Furthermore, if penalty rates were those proposed by the AHA and my hotel was open on Sundays and public holidays I would also roster my staff to work on additional shifts which would create more work for them. Sunday and Public Holidays could employ 2 Kitchen staff for 8 hours each and approximately 12-15 hours of Front of House staff.
16. An extra day of trading, on a day that would be as busy as a Sunday, could provide sufficient funds to renovate our kitchen and improve the variety of meals that are served to our patrons. As it is heritage listed I believe our Hotel is a community asset however its upkeep requires a significant amount of time and cost.

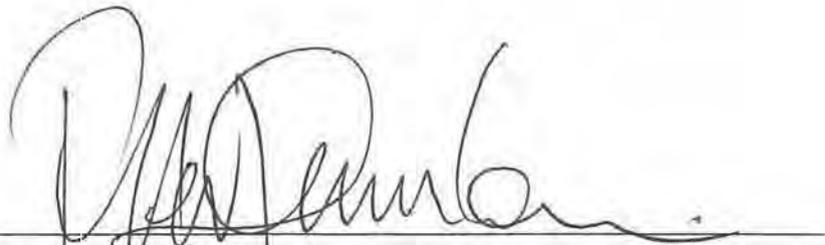
#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness



Sonia Ryan
176 Brisbane Street Ipswich

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)²

Signature of witness



Sonia Ryan



¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION**Review of the *Hospitality Industry (General) Award 2010* and others****PENALTY RATES****Matter No: AM2014/272****Applicant: Australian Hotels Association**

I, Peter Sullivan, Owner say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the Owner of Grogbaron Pty Limited which trades as the Queensland Hotel Goondiwindi, located at 134 Marshall St Goondiwindi in Queensland.
4. The Queensland Hotel is licenced to trade from Sunday through to Thursday, 10am to 12pm and Friday and Saturday from 10am 1am.

Staff

5. We employ 24 staff. Three of those are salaried employees and the remainder are casuals covered by the Award. There is no enterprise agreement.

Penalty rates

6. As a result of the cost of employing staff to work, on Sundays and public holidays we try to reduce staff levels. On public holidays in particular we always roster our salaried management in preference to casual employees, and my wife and I will also work.
7. In an attempt to reduce costs I will also close the bar early if there are less than 6 patrons drinking on a Sunday or public holiday as it is simply not variable for staff to continue working.
8. We also close the dining room on Sundays for lunch. That was a hard decision to make, as in a town like Goondiwindi families and other members of the community enjoy meeting for a drink and a meal on a Sunday.
9. For a while we trialled having a roast on a Sunday so that the kitchen was not required to prepare full meals, but the cost of penalty rates engaging even one additional staff member to organise that was not worth it having regard to the amount of money the Hotel made.

10. I also considered having a surcharge on a Sunday lunch however I was uncomfortable with charging my customers extra. Also, I do not believe patrons would pay a surcharge.
11. On a Sunday night a few weeks ago we had three staff working, which is the minimum we need to operate as the kitchen is open. We still suffered a loss of around \$100 on that day as the labour costs due to the penalty rates were so high.
12. Were it not for our bottle shop and gaming room we would not be able to open on public holidays at all. That is because both the gaming room and bottle shop can be staffed with very thinly, and an income is still generated from those parts of the business.
13. My casual staff ask to be rostered on public holidays and Sundays as they have the flexibility to work those hours. For example, most of my bar staff are young, single people from within the town who are keen for extra money.
14. We used to have a detached bottleshop that was separate from the Hotel, beside the local Foodworks however a few years ago Bi Lo came to town and is now branded Coles, this business had a great effect on the Foodworks next door. When I weighed up the cost of employing people to work in the bottle shop (I needed to have a minimum of three at any time) it was not financially viable to keep it open.
15. Three of my employees lost their jobs.

AHA Penalty Rates Proposal

16. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
17. If the AHA's proposal was accepted, I would use the money saved from labour costs to increase my contribution to the community. Our Hotel is the major sponsor of the Goondiwindi Football club, and I would like to make certain that relationship continues. We also sponsor around twenty other charities and community initiatives in the Goondiwindi local community.
18. I would also improve the service to my customers by providing lunch on Sundays.
19. The AHA proposal means that the impact of additional public holidays being declared is reduced. This year, the show day public holiday in Goondiwindi was declared on the Friday before the Labour Day public holiday on the Monday.
20. That meant we had an extra-long weekend of public holidays which was financially crippling for my business. The impact of those holidays was made all the worse by the fact around half the town attended the show, and so business was a lot slower than usual.

#SWORN #AFFIRMED

At [place] GOODWINDI QLD

On [date] 29 JUNE 2015.

Signature of deponent P. Sullivan

Name of witness WINIFRED MARY SKINNER

On [date] 29 JUNE 2015.

Address of witness 16 GLENDALE ROAD, GOODWINDI QLD

Capacity of witness ~~{#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public}~~

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
~~#I have confirmed the deponent's identity using the following identification document.~~

Identification document relied on (may be original or certified copy)^[2]

Signature of witness W. Skinner

WINIFRED MARY SKINNER
Commissioner for Declarations
Reg No. 66216

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licences, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Philip Tudor, Owner of the Hotel Canobolas, Orange say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am Owner of the Hotel Canobolas, Orange located at 248 Summer Street, Orange in New South Wales.
4. The Hotel Canobolas is open 7 days a week from 10am until midnight Monday to Friday, from 11am until 1pm on Saturday and from 11am until 9pm on Sunday.
5. I employ 52 people at the Hotel Canobolas. Of those employees, 14 are permanent, salaried employees and 2 are apprentices. The remainder are casual employees at Grade 1,2 and 3 under the Award. There is no enterprise agreement.
6. Of my casuals, 8 to 10 are students and for others working at the Hotel is a second job. For around 4 of my casual employees working in the hotel is their main job and they work between 30 and 60 hours per week.

Penalty Rates

Public holidays

7. I roster my casual employees to work on public holidays. They are keen to obtain the work as it fits around their lifestyle. Also, rostering my casual employees on given my permanent employees a day off.
8. Due to the cost of penalty rates on public holidays I am paying someone approximately \$47.71 per hour on those days (at the lowest Grade under the Award) and than after 7pm an additional \$1.96 per hour plus super contributions to carry a plate from the kitchen to a table.
9. We have a 10% surcharge on food on those days but the amount we make from the surcharge is not enough to offset the cost of wages. I am not comfortable with passing on the cost of wages to the punter but I feel I have no alternative.

10. We cannot have a surcharge on drinks as customers would not agree to pay.

Sundays

11. On Sundays we have a 10% surcharge on food as well which goes towards supplementing the cost of wages on that day.
12. It is cheaper for me to roster a permanent, salaried, skilled chef on a Sunday than my apprentice as the apprentice is paid penalty rates.
13. Sundays used to be a great day at the pub, however the cost of penalty rates means we can no longer afford to provide live music or provide a cheaper food promotion such as Sunday roast to customers due to the amount we spend on wages.
14. On Sundays I am paying my lowest-grade casual employee approximately \$30.36 per hour and then after 7pm an additional \$1.96 per hour plus super contributions. It suits the employee as they are able to make good money on that day, however I do not like paying such a portion of my wages bill to employees that have no long-term commitment to the industry.
15. I feel an obligation to my regular customers to stay open on a Sunday. In regional centres such as Orange the pub is a place where families and members of the community come to socialise.
16. If we shut the pub on a Sunday I estimate we would lose between \$1,000 and \$3,000 in net earnings but save between \$1,000 and \$3,000 off the Hotels weekly gross wages.

Impact of the proposed change to penalty rates

17. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would consider increasing the amount I pay my permanent employees. I believe it is important to invest money into my staff that look on their job as a career. Currently, the portion of revenue available for wages I would dedicate to those staff is being spent on paying my casuals penalty rates.

18. If the AHA proposal is approved, on days that are declared additional public holidays I would happily roster my casual employees, and my permanent employees would have a well-earned day off.
19. If penalty rates were those proposed by the AHA I would roster my apprentice to work on those days and the chef would be free to work an extra day during the week.
20. I do not feel as if we are operating in a service industry anymore as the quality of the service I offer my patrons has declined. I feel as if the hospitality industry is more akin to retail.

#SWORN #AFFIRMED at

Signature of deponent

Name of witness

Address of witness

Capacity of witness

ORANGE ON 29 JUNE 2015

[Handwritten signature]

PETER THOR

1/- COURT HOUSE ORANGE NSW 2800.

[#Justice-of-the-peace #Solicitor #Barrister #Commissioner for affidavits #Notary-public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent)

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering:1
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 #I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)²

Signature of witness

[Handwritten signature]

PETER THOR
SOLICITOR

1/- COURT HOUSE
ORANGE NSW 2800.

[¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Rick Lovell, Hotel Owner say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

The Marryatville Hotel

3. I am the owner of the Marryatville Hotel.
4. The Marryatville Hotel is located at 239 Kensington Road, Kensington in South Australia.
5. Kensington is in Adelaide's eastern suburbs approximately 5km from the CBD.
6. I have owned and operated the Hotel since 1993.
7. I have been in an ownership position in the hospitality industry for 35 years.
8. I am the Secretary/Treasurer of the South Australian Branch of the Australian Hotels Association.
9. I am an alternate Director of the Independent Gaming Corporation in South Australia.
10. I have previously been a Director of Host Plus Superannuation Fund.
11. The Hotel consists of a bistro, bar, gaming room, bottle shop and drive-in, dining area and playground. The Hotel is open the following hours:

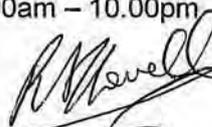
a. Hotel

- i. Monday – Thursday – 9.00am – midnight
- ii. Friday – Saturday – 9.00am – 1.00am
- iii. Sunday – 10.00am – midnight

b. Bottle Shop

- i. Monday – Tuesday – 10.00am – 10.00pm

1 of 4



- ii. Wednesday – Thursday – 10.00am – 11.00pm
- iii. Friday – Saturday – 10.00am – midnight
- iv. Sunday – 10.00am – 9.00pm

c. Playground & Dining Room

- i. Sunday – Thursday 12.00pm – 2.00pm and 5.30pm – 8.30pm.
- ii. Friday and Saturday 12.00pm- 2.00pm and 5.30pm – 9.00pm.

12. The Hotel is open on all public holidays other than Christmas Day and Good Friday and has a reputation for being a family friendly venue due to its dining facilities and playground.

Staff

13. I employ approximately 35 staff members. Based on the payroll run for week ending 21 June 2015 this comprised:
- a. one salaried Manager (**Award free**);
 - b. three salaried Duty Managers (**Managerial under Schedule D2.9 as per the Managerial Absorption Provision clause 27.2**);
 - c. four other salaried full time staff (**Managerial under Schedule D2.9 as per the Managerial Absorption Provision clause 27.2**); and
 - d. 22 casual staff .These staff are paid in accordance with the award depending on duties etc.
14. Some of the casual staff are university students who work in the dining area of the Hotel.
15. The casuals that are students elect to work on Sundays and public holidays as they do not have contact hours during these times and it is more convenient for them.
16. It is difficult to employ and retain staff. Accordingly, as the staff members like being employed on a casual basis as this increases their income, I need to allow them to remain casuals otherwise I would not retain them.

Public Holidays

17. Due to the prohibitive penalty rates that apply to staff (and in particular casual staff) on public holidays, I have recently altered the terms of the Hotel's licence to remove the obligation to provide full meal service on public holidays.
18. Accordingly, the dining room will be closed on public holidays and only food that can be prepared prior to public holidays and served by bar staff on public holidays will be offered.
19. Staff are disappointed that the dining room will be closed on public holidays. This means that they will receive less hours.

2 of 4

M. Maxwell
J. P.

20. I am concerned that closing the dining area will disappoint patrons. I am reluctant to take the measure of closing the dining room on public holidays however given the cost of penalty rates, it is not economically viable to open the dining room on these days.
21. As a result of the change to penalty rates for casual workers that took place from 1 January 2015, I have instituted a 15% surcharge on meals to try and absorb some of the cost of the increase in wages.
22. The profits from the sale of food on public holidays is very marginal. Accordingly, I am constantly assessing the financial viability of opening the dining facilities on public holidays. This has lead to the decision following the last public holiday (Queens Birthday) to close the dining room in future on all public holidays.

AHA Penalty Rates Proposal

23. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
24. If this proposal was accepted, it would mean that I would not need to close the dining area.
25. If the proposal is not accepted, the Hotel will be forced to implement our now changed policy to reduce dining services on public holidays. This will therefore translate into a decrease in the number of hours and income provided to employees. It would also impact families that would normally dine at the Hotel on these days.

3 of 4

R. Morell
J.P.

#~~SWORN~~ #AFFIRMED at Kensington

on 26th June 2015

Signature of deponent

[Signature]

Name of witness

TREVOR EVANS

Address of witness

11/15A GO HIND MARCH SQUARE ADELAIDE.

Capacity of witness

~~Justice of the peace~~ ~~Solicitor~~ ~~Barrister~~ ~~Commissioner for affidavits~~ ~~Notary public~~

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 - ~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 - ~~#I have confirmed the deponent's identity using the following identification document.~~

Identification document relied on (may be original or certified copy)²

Signature of witness

[Signature] J.P. No. 11939

A Justice of the Peace in and for the State of South Australia

26th June 2015

¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

4 of 4.

[Signature] J.P.

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Samantha Walder, Director of Human Resources say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am Director of Human Resources at the InterContinental Sydney Double Bay located at 33 Cross St, Sydney in New South Wales.
4. The InterContinental Sydney Double Bay is a hotel that is open all the time.
5. We employ approximately 140 staff. Of those, 60 are casual at grade 2 under the Award and 80 are permanent employees engaged under the Award. We employ 22 salaried employees who are not covered by the Award. There is no enterprise agreement.
6. As a five star hotel we operate seven days a week, 24 hours a day.

Penalty Rates

7. I have over 100 staff who are very happy to work on Sundays and public holidays because it suits their lifestyle. Generally they are students, young employees and some parents who will always attend work on that day because the shift suits their lifestyle and money is good.
8. Our business is required by the InterContinental Group to remain open on public holidays however we are not provided with any financial support to do so. In particular, brand standards require us to have dining options available to guests and housekeeping service. That means having our kitchen, wait staff and housekeeping staffed.
9. As penalty rates create an additional financial burden to employ staff on the weekend and public holidays our Hotel reduce staff numbers where possible on those days. We also will engage salaried employees to work – that is because it is more cost effective.
10. Notwithstanding, the Hotel trades at a loss on public holidays if we do not exceed 80% occupancy in guest rooms.

SWH

11. Due to the cost of engaging staff, on public holidays we close the rooftop dining area if we do not have a strong occupancy. That is a significant disadvantage to our guests as a number of them are not from Australia and the views of Sydney from the rooftop are spectacular.
12. We also roll over making up of rooms where possible so they are not made up on Sunday. We will roll this over to Monday to avoid paying housekeeping staff on a Sunday, which presents a risk if there are any unexpected increases in accommodation.

Impact of the proposed change to penalty rates

13. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

We would certainly improve service offerings to guests, in that we would have full dining & increase staffing levels on public holidays.

14. If penalty rates were those proposed by the AHA I would also engage more of my casual employees to work on Sundays and public holidays depending on business needs. As it stands those employees are at a disadvantage on those days as they are not given priority for shifts. We would also take less risk when rolling over the make up of rooms, giving housekeepers more work and income.
15. The AHA proposal means that the impact on the business of additional public holidays being declared is reduced. For example, the Saturday over Easter in New South Wales was a public holiday, and we were required to factor in the cost of wages when rostering staff for shifts that fall on those days.

SW M

SWORN/AFFIRMED

At 25 Knox Street, Double Bay NSW 2028

On 29 June, 2015

Signature of deponent

Janet Wald

Name of witness

Paul Lowinger JP (158023)

On 29 June, 2015

Address of witness

5/297 O'SULLIVAN Ave
BERRIGEE NSW 2073

Capacity of witness

Justice of the peace

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent.
- 2 #I have confirmed the deponent's identity using the following identification document: Driver Licence

D/L 7900 AY

Signature of witness

Paul Lowinger JP (Paul Lowinger JP)

SW JL

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Samuel McInnes, General Manager of the Hurley Hotel Group, say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Hurley Hotel Group

3. I am the General Manager of the Hurley Hotel Group. I have held this position since 2006. Prior to this I was the Financial Controller at the Hurley Hotel Group from 1995 until 2006.
4. I am also a member of the Australian Hotels Association (SA) IR Committee.
5. The Hurley Hotel Group manages 10 hotels including the Hackney Hotel and Function Centre in Hackney South Australia and The Pretoria Hotel in Mannum South Australia.
6. We employ 550 staff across the Group however each Hotel has its own ABN and employs its own staff.

The Pretoria Hotel

7. We employ 27 people at the Pretoria Hotel. That consists of 5 full time staff and 22 casual staff, all of whom are covered by the Award. There is no enterprise agreement. The classification of the 22 casuals are 3 x Level Two Junior, 12 x Level Two Adult, 4 x Level Three Adults, 3 x Level Four Adults.
8. The Pretoria Hotel is located in on the River Murray in Mannum which is approximately one hour's drive from Adelaide. There is a large licensed lawn area.
9. The Pretoria Hotel is the only venue in the area that provides live entertainment every weekend.
10. A newly installed board walk takes you from the Pretoria Hotel to the Mary Ann Reserve which is the home for the Murray Princess and a stopover port for the Proud Mary which offers cruises of the River Murray.
11. The Hotel is open seven days a week, between 14 and 16 hours a day and consists of:

1 of 4


Samuel J.P.

- a. A traditional Front bar;
 - b. Boathouse bar;
 - c. Gaming room;
 - d. Restaurant;
 - e. Bottleshop; and
 - f. Wedding and function facilities.
12. Give the location of the Pretoria Hotel, it is difficult to find and retain staff of a similar calibre to the metropolitan area.
 13. The Hotel employs five students who predominantly work on weekends and public holidays.
 14. Given the proximity to the River Murray, Mannum is a town influenced by tourism. Accordingly, depending on the time of year, the weather, and local events the Hotel experiences a considerable variation in the number of patrons. It is therefore necessary to have well trained and resilient staff who are available at short notice.

The Hackney Hotel and Function Centre

15. The Hackney Hotel is located in Hackney, South Australia.
16. The Hackney Hotel was awarded:
 - a. Winner of South Australia's best function venue in 2013 and 2014;
 - b. Winner of South Australia's best bistro/casual dining in 2014; and
 - c. Winner of South Australia's best pub burger in 2013.
17. The Hackney Hotel is open:
 - a. Monday – 9.00am – 12.00am
 - b. Tuesday to Sunday – 9.00am – 3.00am.
18. The Hotel consists of:
 - a. Two bars;
 - b. Restaurant;
 - c. Gaming room; and
 - d. Wedding and function facilities.
19. The Hotel employs 45 staff members, 2 who are only available to work on Sundays due to study commitments.

2 of 4


 J.P.

20. There are 3 employees that are only available to work on weekends as they work in other jobs on Monday to Friday.

Effect of Penalty Rates

Public Holidays

21. Due to licensing requirements at both the Pretoria Hotel and the Hackney Hotel and Function Centre, it is not possible to close the Hotels for entire days on public holidays other than Good Friday and Christmas Day.
22. The high cost of penalty rates on public holidays means staffing the hotel is too costly and we will close early on those days. For example, on the eve of a public holiday we will usually close the Hotels at 11.30pm so we do not trade into the next day. On the day of a public holiday we will close earlier in the evening.
23. Since January 2015, a 10% surcharge has been added to our menu prices and function packages at the Hackney Hotel. Over the June long weekend we implemented the same surcharge at the Pretoria Hotel.
24. At Hackney the surcharge has resulted in the loss of some booked functions as customers take their business elsewhere. It is too early to determine the effect of the surcharge at the Pretoria Hotel.
25. We are considering reducing the menu options available to patrons on a public holiday to minimise the amount of kitchen labour required on these days.
26. On public holidays we are forced to cut the hours staff work. That is due to the reduced opening hours, but we also try to operate with as fewer employees as possible to save costs.
27. As noted above, as an inner-suburban Hotel a large portion of our casual employees at the Hackney Hotel are students. There is a high demand from them to work public holidays as it fits in with their studies.

Impact of the proposed change to penalty rates

28. If penalty rates were those being sought by the Australian Hotels Association:
- Sundays – 150%; and
 - Public Holidays – 225% full time and part time and 175% casuals,
 - Additional Holidays – 200% for full time and part time and 125% casuals

we would consider undertaking renovations at the Hackney Hotel. That would dramatically improve the ambience, décor and efficiency of the hotel by providing a larger combined bar with open roof.

29. If penalty rates were those proposed by the AHA we could provide more certainty of hours for staff, especially casual staff members. Closing early on public holidays means that staff members have their hours cut, sometimes at short notice, which leaves them uncertain as to how much work they will have.

3 of 4.

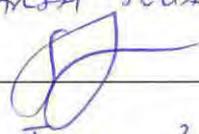


Handwritten signature and initials, possibly 'J.P.' or similar, in blue ink.

30. The AHA proposal means that the impact on the business of additional public holidays being declared is reduced.
31. Extended trading on public holidays would also provide more continuity and less disruption to our service offerings.

#SWORN #AFFIRMED at HINDMARSH SQUARE, ADELAIDE SA 5000

Signature of deponent



Date

25th June 2015

Name of witness

TREVOR EVANS

Address of witness

111/1st. 60 HINDMARSH SQUARE ADELAIDE SA

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
 #I did ~~not see~~ the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹

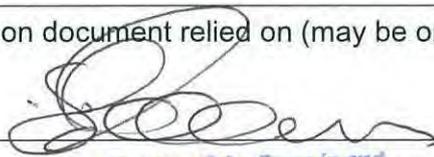


2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
 #I have confirmed the deponent's identity using the following identification document:



Identification document relied on (may be original or certified copy)²

Signature of witness



J.P. No. 11939

A Justice of the Peace in and for the State of South Australia

¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

A of H.



IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Sharon Martin, General Manager say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

The Adelaide Rockford Hotel

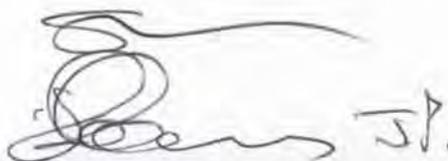
3. I am the General Manager of the Adelaide Rockford Hotel. I have been the General Manager for 10 years.
4. I have been in the hospitality industry for over 30 years.
5. The Adelaide Rockford Hotel is a 7 day a week, 24 hour a day accommodation provider with restaurant and conference facilities.
6. We employ 42 staff – 10 salaried employees, 3 Full Time Staff (1 on HIGA Level 5, 2 on HIGA Level 3) 8 PPT staff (7 on HIGA Level 2, 1 on HIGA Level 3); when performing supervisor duties they are paid on Level 4; the remainder of staff are casuals who are covered by the Award. There is no enterprise agreement.
7. We employ casual staff members that are International students or former International students, currently 5 of our casual staff are International students as well as three mothers returning to the workforce following maternity leave.

Effect of Penalty Rates

Public Holidays

8. As we are required to be open all the time and need a fully functioning reception service, the first areas from which the Hotel trims services on a public holiday is housekeeping and in the restaurant.
9. The nature of our industry is that the services we offer are not predictable, and if people walk in off the street unexpectedly we need to have people ready to assist them at reception.

1 of 4



Handwritten signature of Sharon Martin, General Manager, with the initials 'SM' to the right.

10. On a public holiday we will "cross pollinate" our staff and have those working in the restaurant assist at reception if necessary, rather than engage extra staff for those days. That is because the penalty rates in the Award make it too expensive to do so.
11. Salaried staff members are utilised on public holidays in order to control wage costs. Generally, employees who attract a higher penalty rate for public holidays (that is, those covered by the Award) will not be allocated shifts if possible.
12. From 1 January 2015 we made a decision to close the restaurant on public holidays during the evening. We are technically meant to have the restaurant open seven days a week, and the risk associated with our decision is complaints from customers who would like to dine at the Hotel.
13. Unfortunately, we could not afford to pay each staff member a minimum of three hours wages to work in the restaurant and the kitchen on those days. The revenue we have traditionally made from public holidays, although on some public holidays we are still busy, is not sufficient to offset the cost.
14. As an alternative, we have make arrangements for guests to be able to order dinner from neighbouring establishments through the Hotel, so there is room service available.
15. In relation to housekeeping, on public holidays we "roll" rooms which means they are not serviced until the following day. The risk with that approach is that there will be a late influx of guests seeking accommodation, and we will not have rooms prepared, however we take a gamble that that will not be the case.

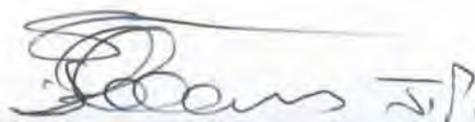
Sundays

16. We are very mindful of the cost of labour on a Sunday as a result of the penalty rate we are required to pay our employees on that day. We try to keep costs in the Hotel as low as possible.
17. We usually have a restricted menu in the Hotel on a Sunday evening and we do not open for lunch. We also roll housekeeping on a Sunday.
18. We restrict the number of casuals that we roster on the weekend as they are more expensive to engage than our permanent and salaried employees. In that regard most will do up to 10 hours.
19. It has been my experience that the traditional Monday to Friday working week does not exist anymore, particularly in the hospitality industry. Employees want to be flexible in the hours they work as it fits in with their lifestyle. Students, particularly the international students we engage, just want shifts.

Impact of the proposed change to penalty rates

20. If penalty rates were those proposed by the AHA, that is:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and

J.P.H.



c. Additional Holidays – 200% for full time and part time and 125% casuals,

the Hotel would consider offering a full restaurant and housekeeping service every day. That would mean more work for our staff and greater convenience to guests who are staying at the Hotel, and that on occasions such as mother's day and father's day guests could celebrate with a lunch.

21. If penalty rates were those proposed by the AHA we would also consider investing the additional money into training our staff to work in certain areas. Currently we have less staff doing more duties and it would be a benefit to our business, as well as current and future employees, to reverse that situation.
22. The AHA proposal means that the impact on the business of additional public holidays being declared is reduced. For example, in South Australia we have "half day" holidays such as Christmas Eve and New Year's Eve and currently we have to factor in the cost of wages when rostering staff for shifts that fall on those days. If penalty rates were those proposed by the AHA, on additional public holidays we could instead focus on providing service to the customer.

34/4

A handwritten signature in black ink, appearing to read "Dennis J.", located at the bottom right of the page.



#SWORN #AFFIRMED

At [place] Hindmarsh Square, Adelaide

On [date] 25th June 2015

Signature of deponent



Name of witness

TREVOR EDWARDS

On [date]

25th June 2015

Address of witness

ANALSA GO HINDMARSH SQUARE ADELAIDE.

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]



And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

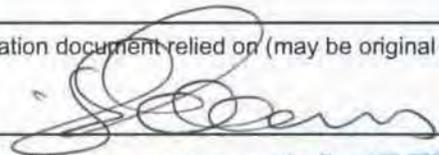
- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document.





_____ Identification document relied on (may be original or certified copy)^[2]

Signature of witness

 J.P. No. 11939

*A Justice of the Peace in and
for the State of South Australia*

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]
 [²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Qaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

4 of 4




IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Sue Mitchell, Hotel Owner say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would have prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Victoria Tavern

3. I am the owner of the Victoria Tavern located at 1 Musgrave Street, Rockhampton in Queensland.
4. I have owned the Hotel since 10th of April 1995
5. I have been in the hospitality industry for 33 years
6. The Hotel consists of a bar, beer garden, bottle shop, bistro, Function area and Brazilian Restaurant.
7. The Hotel is open the following hours:[Monday – Sunday and is generally open on all public holidays except on Christmas Day].

Staff

8. The Hotel employs 18 comprising:
 - a. 2 full time staff;
 - b. no part time staff; and
 - c. 16 casual staff.
9. All staff employed are covered by the Award.
10. There is no enterprise agreement.
11. A vast majority of my staff are university students, younger persons, or mother or fathers with children, who would prefer to work on days where penalty rates applies. The staff who I typically roster to work on Sundays and public holidays are university students because they are available.

Penalty Rates: Weekends and Public Holidays

12. Due to the penalty rates, it is not economically viable to open for breakfast service on Sundays and public holidays.
13. In one instance, the local RSL requested that the Hotel serve breakfast on ANZAC Day. Unfortunately I had to decline this request as the cost of rostering staff on public holidays due to the penalty rates is too high.
14. I would like to make mention of the Christmas New Year period. This week is has 3 public holidays and is finically crippling on staff after Christmas expenses. This is a slow period for business and our trading hours are shorter as a direct result. Employee's hours are very limited as public holiday rates make it invariable to conduct and promote events to generate extra business. During this short week the limited hours are rationed over all the staff yet again reducing the hours of the core casuals Employees.
15. The Easter Period is also a difficult period finically for Staff, as again there are 3 public holidays -Good Friday, Easter Saturday and Easter Monday in the one pay period. It is unviable to operate our regular trading hours due to increase wage costs on already tight margins and we therefore close proportions of our business to compensate. We do not operate our function area and limit dinning options during this period as customers are refuse to pay a public holiday surcharges. This period is perfect for promotions of events but unfortunately we unable to generate any profit due to increase wage costs. I feel this is a loss for the Business, staff and the public.
16. As a cost saving measure, to alleviate the burden of penalty rates, I have reduced Sunday and public holiday trading hours so that the Hotel does not operate at night.
17. As a result of penalty rates, I hire fewer staff who are covered by the award on Sundays and public holidays, even though the Hotel receives business that would justify the contrary. In lieu of rostering more staff, I will typically work on Sundays and public holidays to ensure adequate staff numbers.
18. Staff members have often requested or alluded to me that they would like to work on Sundays and public holidays have suggested to me that, should I not be in a position to allocate them such work, they could alternatively be paid cash in hand or at a lower rate in an effort to secure extra hours. I refuse to breach the Hospitality Industry General Award, as suggested, to lower wage costs and the reality is the Hotel cannot afford to hire more staff on these days at Award rates.
19. With penalty rates at their current level, and notwithstanding other employee related costs, I have been deterred from investing in the growth of the Hotel. Ideally, I would like to invest in a playground area for the children who visit the Hotel with their parents, but am constrained in doing so as the cost involved with such an investment would include the employment of an additional supervising staff member.

AHA Penalty Rates Proposal

20. I am aware that the AHA is seeking an amendment to the penalty rates to:

- a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
21. If the AHA's proposal is accepted, it would allow me to roster more casual staff on Saturdays, Sundays and public holidays and therefore the hotel would offer more services to patrons including full dining service.
22. Ideally, I would like to make the Hotel more family friendly by investing in a playground for children to attract more families. This initiative in itself would be of beneficial interest to the community for reasons that it would encourage community and family interaction. If the AHA's proposal is accepted, it may be possible for me to do this.

#SWORN #AFFIRMED

At [place] Rockhampton

On [date] 29th June 2015

Signature of deponent Smutt

Name of witness

Leesa Gay Olive

On [date] 29.06.15

Commissioner for Declarations

Address of witness

Reg. No. 3683

21 Lindrup Rd, The Caves @ 4702

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. (1)~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
~~#I have confirmed the deponent's identity using the following identification document:—~~

Identification document relied on (may be original or certified copy)⁽²⁾

Signature of witness

Leesa Olive

⁽¹⁾ The only "special justification" for not removing a face covering is a legitimate medical reason.]

⁽²⁾ "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following

⁽²⁾ "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Matter No: AM2014/272

Applicant: Australian Hotels Association

On 26th day of June, 2015

I, Susan Cameron, Owner of the Lord Roberts Hotel ~~say on oath~~/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am Owner of the Lord Roberts Hotel located 64 Stanley St, Sydney in New South Wales.
4. The Lord Roberts Hotel is open 7 days a week from 10am until 12pm Monday to Saturday and 12pm until 10pm on Sundays.
5. I employ 17 people at the Lord Roberts Hotel. The vast majority (14-15) are casuals employed at Grade 2 and 3 under the Award and most of the casuals are university students, overseas travellers on working visas and individuals who have a second job. University students and individuals with a second job work around 2-3 shifts per week and overseas travellers work 4-5 shifts per week. These employees total 9-10. Some casuals work up to 5 shifts per week.
6. The permanent employees are management staff and are also covered by the Award.
7. There is no enterprise agreement.

Penalty Rates

Public Holidays

8. My casual employees are very keen to work public holidays as it fits in with their studying and travel plans.
9. On Christmas Day, Boxing day and over Easter I close the Hotel as I cannot afford to pay staff penalty rates on those days.
10. On the public holidays we are open the Hotel trades from 12pm until 10pm and all areas of the Hotel (with the exception of the cocktail bar) stay open.





11. It is my preference to close the entire Hotel on a public holiday rather than shut off areas or operate with skeleton staff. That is because, given the size of our Hotel and its location in Sydney, I do not consider it safe to have reduced levels of staff working behind the bar and as security.
12. A number of years ago I decided to cut staff levels and close the restaurant on Australia Day as I did not expect it to be busy. As it turns out it was busier than I anticipated, and someone entered our upstairs area and robbed the Hotel. Ordinarily the staff working in the restaurant would have seen someone enter that area.
13. Even though we operate all areas of the Hotel on a public holiday we still trade at a loss. That is something we tolerate as the risk of not opening is too great. We are located near William Street in Sydney, and around us are a lot of cafes that are also licenced to serve alcohol. If the Hotel is not open on a public holiday our customers will go elsewhere, and we will lose the continuity of business and the goodwill of our customers.
14. We charge our customers a 10% surcharge on food on public holidays to help pay for running the kitchen but we do not charge extra for alcohol.

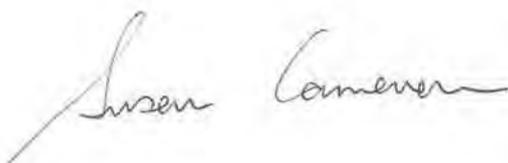
Sundays

15. We used to open from 10am until midnight on Sundays but the penalty rates on that day is too great, so we reduced operating hours.
16. Our business is variable on a Sunday. If it is a nice day we can be very busy and I would like to open the Hotel earlier, however if it is raining and business is low the Hotel can suffer a significant financial loss.
17. For a period I entertained the idea of serving brunch on a Sunday morning. After careful consideration I decided against that idea – to do so would require a diversification of our business, and given the size of our Hotel we would be required to employ many more people than the cafes around us.
18. I also calculated that the amount of money from serving breakfast-style meals would not offset the cost of the Sunday penalty rate wages cost.

Impact of the proposed change to penalty rates

19. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals,
 - c. Additional Holidays – 200% for full time and part time and 125% casuals

I would consider providing services for my patrons like live entertainment and trivia on Sundays and public holidays. I could trade for longer and employ staff for longer shifts.



20. Additional public holidays at the AHA proposed rate would mean I would consider opening the Hotel over Easter, offering more work to staff, as the burden on the business would be significantly reduced.
21. Prior to the introduction of the Award the Hotel had DJs playing the back bar which was very popular. As it currently stands I can only afford to have a DJ playing occasionally as the cost of paying wages is not offset by earnings. If penalty rates were those proposed by the AHA I would return to having a DJ play at the Hotel on a regular basis.

#~~SWORN~~ #AFFIRMED at

Sydney

Signature of deponent

Rusan Corneille

Name of witness

DAVID JOHN HODGESS

Address of witness

58 MORONG STREET, EAST SYDNEY

Capacity of witness

~~[/Justice of the peace /Solicitor /Barrister /Commissioner for affidavits /Notary public]~~

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
~~#I have confirmed the deponent's identity using the following identification document:-~~

Identification document relied on (may be original or certified copy)²

Signature of witness



¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Tim Bilston, General Manager of the Amora Hotel Riverwalk Melbourne, say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the General Manager of the Amora Hotel Riverwalk Melbourne and have held this position for approximately 11 years.
4. I have been involved in the Hotel Industry for over 25 years.

The Amora Hotel Riverwalk Melbourne

5. The Amora Hotel Riverwalk Melbourne ('the Amora') is located at 649 Bridge Road, Richmond Victoria, on the banks of the Yarra River. Richmond is approximately 3km south east of Melbourne's CBD.
6. The Amora is in close proximity to both the Bridge Street shopping strip as well as the major Melbourne sporting attractions.
7. The Amora offers patrons various sporting attraction accommodation packages.
8. The Amora employs 80 staff members made up of:
 - a. 41 full-time staff; and
 - b. 43 casuals.
9. The breakdown of the staff are as follows:
 - a. Casuals:
 - i. 9 are Grade 1;
 - ii. 32 are Grade 2;
 - iii. 1 is Grade 3; and
 - iv. 1 is a Supervisor.



- b. Full Time:
 - i. 1 is Grade 1;
 - ii. 16 are Grade 2; and
 - iii. 24 are Salaried Managers.
10. There is no enterprise agreement.
11. The Amora offers:
- a. 111 guest rooms ranging from suites to two bedroom apartments;
 - b. Restaurant;
 - c. Bar; and
 - d. Conference and wedding facilities.

Sundays and Public Holidays

12. The lobby bar is closed on Sundays as the penalty rates imposed makes it unprofitable to open.
13. Skeleton staff are utilised in the restaurant on Sundays to reduce the cost of wages due to penalty rates. As a result, the service provided to patrons is of a lower standard to the service that is offered on weekdays and Saturdays.
14. The cleaning of hotel rooms on Sundays and public holidays is done on a needs basis. Only the number of rooms that are booked for that night will be cleaned and the rest will be left until the following day.
15. Higher rates are quoted for weddings and functions that are to be held on a Sunday due to the penalty rates that need to be paid to staff the function. This has resulted in less bookings on Sundays.
16. On public holidays, less front desk staff are rostered on.
17. No turn down service is offered on a Sunday or public holiday.

AHA Penalty Rates Proposal

18. I am aware that the AHA is seeking an amendment to the penalty rates to:
- a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
19. If the AHA's above proposal is accepted, it would mean that we would be able to provide full service on these days, increasing work and income for staff.



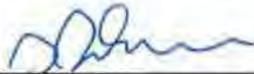
20. If the proposal is not accepted, the Amora will need to consider reducing services further on Sundays and public holidays.
21. If penalty rates were reduced we could add much more service, such as open the Lobby bar and Café, complete turn down and offer more functions.

#SWORN #AFFIRMED

At [place] *Melbourne*

On [date] *29 June 2015*

Signature of deponent



Name of witness

On [date] *29 June 2015*

SIMON GRAY REID
Level 3, 649 Bridge Road, Richmond VIC 3121

Address of witness

An Australian Legal Practitioner within
the meaning of the Legal Profession Act 2004

Capacity of witness

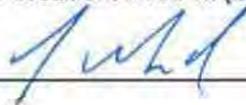
[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 ~~#I saw the face of the deponent. [OR, delete whichever option is inapplicable]~~
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [1]~~
- 2 ~~#I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]~~
~~#I have confirmed the deponent's identity using the following identification document:—~~

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]



IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Tony Cakmar, General Manager of Clarion Suites Gateway, say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the General Manager of Clarion Suites Gateway located at 1 William Street, Melbourne.
4. I have been the General Manager since 2003.
5. I have been in the hotel industry for over 35 years.

Clarion Suites Gateway

6. Clarion Suites Gateway is a 4.5 star hotel in Melbourne's CBD. It offers:
 - a. accommodation in studio, one, two and three bedroom suites;
 - b. 80 seat bar/café;
 - c. A heated indoor pool;
 - d. sun deck;
 - e. broadband Internet connection; and
 - f. 24 hour room service.
7. Clarion Suites Gateway has 69 staff members comprising:
 - a. 27 full-time;
 - b. 3 part-time; and
 - c. 39 casual employees.
8. All of the staff are covered by the Award.



9. There is no enterprise agreement.

Sundays and Public Holidays

- 10. Due to the penalty rates imposed on Sundays and public holidays, the restaurant is closed for dinner on Sundays and is closed for lunch and dinner on public holidays.
- 11. Where possible, rooms are not made up on public holidays to avoid the high penalty rates.
- 12. The Hotel operations on skeleton staff on Sundays and public holidays. Where possible, casuals are not rostered on due to the high penalty rates imposed.

AHA Penalty Rates Proposal

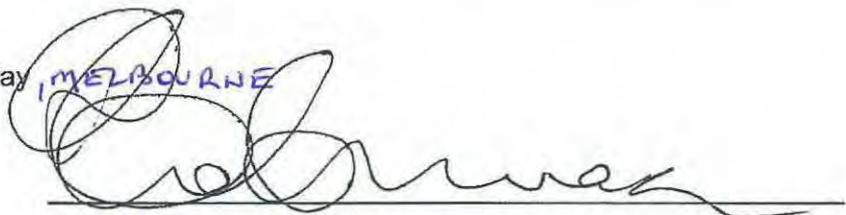
- 13. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
- 14. If the AHA's proposal was accepted, it would mean that we may be able to open the restaurant for lunch on Sundays and for lunch and/or dinner on public holidays.

At Clarion Suites Gateway

MELBOURNE

On 29/06/2015

Signature of deponent



Name of witness

JOHN SWEETMAN

On [date]

29 JUNE 2015

Address of witness

11 DALE STREET, BULLEEN VICTORIA

Capacity of witness

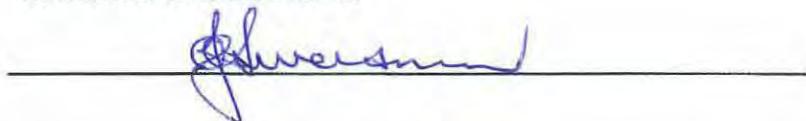
Justice of the peace

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent.
- 2 #I have known the deponent for at least 12 months.

Identification document relied on

Signature of witness



A JUSTICE OF THE PEACE FOR VICTORIA
REG. No 9983
JOHN COLIN SWEETMAN
11 DALE STREET, BULLEEN, VIC. 3105

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Vanessa Anderson, Human Resources Manager of the Pacific Hotel, Cairns say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am the Human Resources Manager of the Pacific Hotel, Cairns located at 43 Esplanade, Cairns in Queensland. I have been employed at the Hotel since March 2012 and in this position since February 2013.
4. The Pacific Hotel, Cairns ("**the Hotel**") is open 24 hours a day, 7 days a week.
5. The Hotel is a family owned and operated independent accommodation hotel.
6. As at June 2015 the Hotel employed approximately 101 staff consisting of:
 - a. 6 full time staff :
 - 1 x Guest Service Grade 4
 - 1 x Kitchen Attendant Grade 3
 - 1 x Cook Apprentice 2nd Yr
 - 1 x Cook Apprentice 4th Yr
 - 1 x Front Office Supervisor Level 5
 - 1 x Clerical Level 4 Grade 3
 - b. 23 full time salaried staff:
 - 15 x Non Award Salaries
 - 8 x Award Annualised Salaries
 - c. 51 permanent part time staff:
 - 1 x Clerical Level 4 Grade 3
 - 1 x Food & Beverage Attendant Grade 1
 - 9 x Food & Beverage Attendant Grade 2
 - 1 x Front Office Grade 1

2 x Front Office Grade 2
1 x Front Office Grade 3
1 x Front Office Supervisor Level 5
1 x Gardener Grade 1
2 x Guest Service Grade 1
21 x Guest Service Grade 2
1 x Guest Service Supervisor Level 5
3 x Kitchen Attendant Grade 1
4 x Non Award Part time employees
1 x Food & Beverage Attendant Grade 3
1 x Food & Beverage Supervisor Level 5
3 x Food & Beverage Attendant Grade 1
9 x Food & Beverage Attendant Grade 2
2 x Guest Service Grade 2
2 x Cook (Tradesperson) Grade 5
2 x Handyperson Level 3
3 x Kitchen Attendant Grade 1

d. 21 casuals :

7. A large number of the part time staff are students.
8. 80 employees are covered by the Award.
9. There is no enterprise agreement.

Night Shift

10. The Hotel Restaurant is open until approximately 11.00pm. At night the restaurant is staffed by Managers who are full time salaried staff as well as part time and casual staff.
11. The Hotel reception is open 24 hours a day. There are normally two staff members rostered on from 11.00pm until 6.00am unless there is a special event booked. There is generally one full time staff member and a part time staff member rostered on to these shifts.

Effect of Penalty Rates

12. As a result of penalty rates, the Hotel's restaurant is closed on Sundays for four months of the year between March and June.
13. The restaurant is also closed and room service is not offered on nine out of eleven public holidays during the year. The sole reason for the closure of the restaurant is due to penalty rates.
14. The Hotel's accountant conducted a cost analysis assessing the cost to the Hotel and the potential profit for the Hotel if the restaurant was opened and room service offered on all Sundays and public holidays. The analysis showed that due to the penalty rates, the cost of wages made it more cost effective to close the restaurant on these days.
15. We would prefer to open the restaurant and offer room service on Sundays and Public Holidays as these are services valued by our clients.
16. Furthermore, the closure of the restaurant on Sundays for four months of the year has an effect on our salaried kitchen staff. The salaried kitchen staff must take one of their Requested Days Off ("RDOs") on one of the Sundays that the restaurant is closed. As a result, they are restricted as to when they can request one of their RDOs.

AHA Penalty Rates Proposal

17. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
18. Although a full cost analysis would need to be done, if the AHA proposal was accepted it is likely that we could open the restaurant on every Sunday of the year. It is also possible that we would be able to offer full restaurant service and room service on public holidays. That would provide significantly more work opportunities for our staff.
19. It would also mean that permanent staff would then not be obliged to take one of their RDOs on a Sunday and we could offer our permanent staff more flexibility to request their RDO on another day of the week that is more beneficial to them.

#SWORN #AFFIRMED at

Signature of deponent

Under 25/06/15

Name of witness

Address of witness

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, ~~delete whichever option is inapplicable~~
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹
- 2 #I have known the deponent for at least 12 months. [OR, ~~delete whichever option is inapplicable~~
#I have confirmed the deponent's identity using the following identification document:²

Identification document relied on (may be original or certified copy)²

Signature of witness

Sydney Davis 25-6-15



[¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the Hospitality Industry (General) Award 2010 and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Will Cordwell, Hotel Owner say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would have prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Ascot Hotel

3. I am the owner of Cordwell Investments Pty Ltd which trades as Ascot Hotel located at 177 Musgrave Street, North Rockhampton (Hotel).
4. The Hotel consists of a bar, dining facilities a bottle shop and accommodation facilities, although the accommodation is not being used much at the moment.
5. The Hotel is open Monday to Saturday from 10 am to 10 pm. Trading hours on Sundays and public holidays are generally from 10 am to 3 pm but are subject to change depending on the amount of business received.

Staff

6. I employ 5 people, and all but one are casual. My casual employees are a Grade 2 or 3 under the Award.
7. I work 6 to 7 days per week in the Hotel.
8. I have been working in the Hotel for 29 years, and have been in the Hotel industry for 40 years.

Penalty Rates

9. Due to the penalty rates, I am usually the only person who works on Sundays and public holidays. My Hotel is famous for a method of cooking meat called Stonegrill dining, and that does not require specialist cooking expertise.
10. In the event that I am unable to work I will usually roster a certain staff member to cover the shift and cook in the kitchen but that means trading hours are reduced to 11 am to 2 pm.

11. If my kitchen staff member is not available to work, I will roster another staff member but will need to close the kitchen.
12. Due to the penalty rates I am required to pay my staff it is too costly to operate the Hotel at full service on Sundays and public holidays.

Impact of the proposed change to penalty rates

13. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals,
 - c. Additional Holidays – 200% for full time and part time and 125% casuals

I could give my employees work on a Sunday and public holidays and ease the burden on me. That is particularly the case in respect of additional holidays, on which day the financial impact on the business of labour costs would be less significant.

14. In that regard my employees have expressed a desire to work Sundays and public holidays as it is extra money for them. In or about January 2015 I had one staff member request to work on the Australia Day public holiday which I had to decline.
15. If my employees worked Sunday I could employ more people for shifts during the week. Employing more people would be a benefit to the community as there are a lot of people looking for work in and around Rockhampton.
16. If penalty rates were those proposed by the AHA I would keep the hotel open later than 3 on Sundays and public holidays as I would roster staff to work an extra 2 5 hour shifts. With the Hotel being open people would be able to enjoy dinner at the Hotel on a Sunday night.
17. I do not make a profit on Sundays and public holidays, and the reason I stay open is to be loyal to my customers. Two Hotels near me have closed completely as it so tough running a business like ours profitably when the cost of wages and overheads such as rent and electricity are factored in.

#SWORN #AFFIRMED at

Signature of deponent

M. Rabe

Name of witness

BARON PHILIP LARGI

Address of witness

5 BURNETT STREET BERSERKEA

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.~~ *AKL*
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
~~#I have confirmed the deponent's identity using the following identification document:~~ *AKL*

Identification document relied on (may be original or certified copy)²

Signature of witness

B. Lox JP (educ)



[¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]
[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Michelle Morrow, Financial Controller and Human Resources Manager of Hunter Management Service Pty Ltd ('Hunter Group'), say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Hunter Group

3. I am the Financial Controller and HR Manager of Hunter Management Services.
4. I have worked in the industry for 20 years.
5. Hunter Management Services consists of four hotels in Victoria including the Gladstone Park Hotel, Gladstone Park, the Olive Tree Hotel, Sunbury, the Derrimut Hotel, Sunshine, and the Pinsent Hotel, Wangaratta.

Gladstone Park Hotel

6. The Gladstone Park Hotel is located at 188/192 Mickleham Rd, Gladstone Park VIC 3043.
7. The Gladstone Park Hotel is an entertainment venue situated in the heart of Gladstone Park only 5 minutes from the Melbourne Tullamarine Airport, and adjacent to Gladstone Park Shopping Centre
8. The Gladstone Park Hotel has been operated by the Hunter Group for more than 20 years.
9. The Hotel consists of a bar, a 110 seat bistro, conference room that seats 20 people and 60 standing, 86 gaming machines, TAB facility, 14 accommodation rooms and a bottle shop.
10. Gladstone Park is not in a high tourist area, but is in close proximity to the airport and local shopping centre.
11. The hotel employs 18 full-time staff members, 3 part-time staff members and 55 casual staff.

12. All staff are covered by the Award, additionally some are paid over and above the award.
13. There is no enterprise agreement.

Olive Tree Hotel

14. The Olive Tree Hotel is located at 111 Evans Street, Sunbury, VIC 3429.
15. The Olive Tree Hotel is an entertainment venue situated 40 kilometres north-west Melbourne's CBD.
16. The Olive Tree Hotel has been operated by the Hunter Group for more than 10 years.
17. The hotel consists of several bars, 120 seat bistro, courtyard, café and coffee shop, 43 gaming machines, TAB facility and 3 separate function rooms.
18. The Olive Tree Hotel is open 7 days a week all year round
19. The Olive Tree Hotel employs 12 full time staff members, 3 part time and 47 casual staff members.
20. All staff are covered by the Award, additionally some are paid over and above the award
21. There is no enterprise agreement.

Derrimut Hotel

22. The Derrimut Hotel is located at 132 Durham Rd, Sunshine, VIC 3020, approximately 12km west of the Melbourne CBD
23. The Derrimut Hotel is a heritage listed, iconic location conveniently located in the food and beverage scene heart of Melbourne's West.
24. The Derrimut Hotel maintains close proximity to multiple transport locations and Sunshine Plaza and Ballarat Rd.
25. The Derrimut Hotel has been operated by the Hunter Group for more than 15 years.
26. The Derrimut Hotel consists of several bars, 100 seat bistro, 55 gaming machines, TAB facility, function room, accommodation and bottleshop.
27. The hotel employs 8 full time staff members, 2 part time staff members and 28 casuals.
28. All staff are covered by the Award, additionally some are paid over and above the award
29. There is no enterprise agreement.

Pinsent Hotel

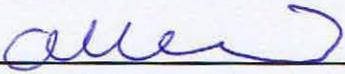
30. The Pinsent Hotel is located at 20 Reid St, Wangaratta VIC 3677, a rural city approximately 230km north east of Melbourne along the Hume Highway.
31. The Pinsent is an iconic and charming heritage building with an interesting history.
32. The Pinsent Hotel has been operated by the Hunter Group for more than 40 years.
33. It consists of a bar, 250 seat bistro, 44 gaming machines, TAB facility, live entertainment facilities, 11 accommodation rooms and bottleshop.
34. The hotel employs 9 full time employees and 35 casual employees.
35. All staff are covered by the Award, additionally some are paid over and above the award
36. There is no enterprise agreement.

Sunday and Public Holiday Penalty Rates

37. In order to reduce the financial impact caused by penalty rates, where possible, rather than making up rooms on Sundays and public holidays it is left until the next day that doesn't attract penalty rates.
38. Some of the Hotels are forced to close sections on public holidays as the penalty rates payable make it economically unviable to open. The TAB or wagering close on Good Friday, Christmas day and Anzac day, The bistro limits its trading to lunch only on Good Friday, Christmas Day and dinner only on Anzac day.
39. The impact of the current penalty rates mean that there is no incentive to invest in the services offered to patrons on weekends and public holidays.

AHA Penalty Rates Proposal

40. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
41. If the AHA's proposal is accepted, Hunter Management Services will be able to staff our facilities adequately, providing more work and serve customers, which is a win/win. People will remain employed, customers will continue to be served and business can continue to operate. This will enable better balance of a business that affects the livelihood of many families.
42. If the proposal is not accepted, we will be forced to continue not to roster on casuals on Sundays and public holidays. Furthermore, we may need to consider reducing trading hours or closing additional parts of the Hotels.

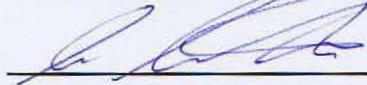
At [place] Hunter Management Services
On [date] 29/06/15
Signature of deponent 
Name of witness Anthony Meilak
On [date] 29/06/15
Address of witness 8 Sellerson street, St Albans 3081.
Capacity of witness CPA

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Michael Burke, Business Owner, say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am part-owner of Hotel Malvern Pty Limited which trades as the Malvern Hotel located at 1117 Malvern Road, Malvern in Victoria. I am also the owner of Curve Bar Pty Limited which trades as the Belgian Beer Cafe Melbourne located at 5 Riverside Quay, Southbank in Victoria.
4. The Malvern Hotel and Belgian Beer Café are open from 11am to 11pm Monday to Thursday and 11am until late Friday to Saturday.
5. I employ 11 full time staff on a salary and 12 casual employees at the Malvern Hotel who are covered by Award. There is no enterprise Agreement.
6. I employ 10 full time staff on a salary and 15 casual employees at the Belgian Beer Café who are covered by Award. There is no enterprise Agreement.

The Malvern Hotel

7. All of my casual staff want shifts on Sundays and public holidays because of the rate they receive, and because it suits them. I have just one employee that is only available on Sundays and public holidays. I have a Duty Manager who is studying at Deakin University in Geelong, and comes back to Melbourne on the weekend. That employee is only available on a Sunday and actually demands a double-shift on that day.
8. Generally however, if we open on public holidays we staff almost completely with our permanent employees who are cheaper to engage than casuals. The owners also work on those days to save wage costs.
9. I would like to employ my casual employees on Sundays and public holidays however having regard to the hourly rates of pay on those days it is simply not economical for me to do so. As a result I am forced to increase the load on my full time staff.

Belgian Beer Café

10. We are open on Sundays and most public holidays, and all of my casual staff are very keen to work due to the additional money they will earn. I employ enough people who want to work on weekends and public holidays to supplement an income, or who are studying during the week, that filling those shifts is never a problem.
11. It is easier for me to staff a Sunday than a Saturday shift, and I cannot understand why the rates of pay are different in respect of those days. The current penalty rate regime is unnecessary and excessive.
12. The reality is that staff who want the work and earn money are not offered the shifts because the business closes, or we run with skeleton staff (mainly management). When it comes to public holidays it is much cheaper to staff the Bar with me, my wife my sons and any full time staff that ask to work.
13. Having said that, the Belgian Beer Café was forced to close all four days over Easter due to the casual staff loadings (the Malvern was also closed). Even though we closed for 4 days (Good Friday – Easter Monday inclusive) we were still only able to offer our full time staff a total of 6 days' work over that fortnight.

Effect of Penalty Rates

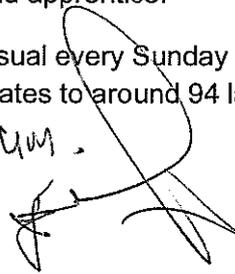
14. The new casual rate of pay for food and beverage attendants Grade 2 increased to \$50.79 per hour on a public holiday from 1 July 2015. With on-costs (payroll tax, work cover fees, superannuation, etc.) this becomes \$59.17 per hour. The new casual rate of pay for food and beverage attendants Grade 2 increases to \$32.32 per hour on a Sunday from 1 July 2015. With on-costs this becomes \$37.65 per hour.
15. At the Malvern we currently close 7 out of 11 public holidays, and this year are intending to close 10 out of 11. This year we closed for all four days over the Easter long weekend as the loss to the business associated with paying wages was too great.
16. The flow on effect of this is that regular customers (both restaurant and bar) become irritated and find a venue that is open on weekends and public holidays. The venues that are open are those that can subsidise their earnings, such as licenced clubs. It follows that business owners like me who rely on bar and food to generate earnings are at a significant disadvantage on weekends and public holidays.
17. On public holidays at the Malvern we also reduce the number of staff in the restaurant, which means customers have to wait longer for food and sometimes become upset.
18. Sundays at the Belgian Beer Café can be very busy for our business however we cannot afford to open the upstairs restaurant. Casual penalty rates mean we would lose money to opening that section, and the consumer generally spends less per head on a Sunday than Monday to Saturday. Consumer spend per head on Public Holidays is generally even less.
19. The anticipated increase in penalty rates, on 1 July 2015, will result in the Belgian Beer Café closing on more, if not all, public holidays.



20. I see the deals that big business seems to get for casual labour rates (such as Crown Casino, Coles and Woolworths), which seems unfair compared to the rate that small businesses in the hospitality industry like ours are required to pay. Our larger competitors have a larger scale of trade and can offset the cost of paying penalty rates and this creates an uneven playing field.
21. If penalty rates were those being sought by the Australian Hotels Association:
- a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

I would engage and train more staff, and would be able to offer employment opportunities to people working within the local community. In particular, I would seek to engage an apprentice to work at both the Malvern and the Belgian Beer Café immediately, and the Belgian Beer Cafe Melbourne would employ a trainee (hospitality).

22. If the AHA's proposal is accepted, we would consider offering promotions, live entertainment or otherwise services of a similar nature at a benefit to the community at the Malvern and the Belgian Beer Café.
23. The AHA proposal also means that the impact on the business of additional public holidays being declared is reduced, particularly having regard to the number of casuals I employ at my businesses and the financial impact the Easter long weekend (when Easter Saturday was declared a public holiday) had on my business.
24. If the AHA's proposal is accepted, the Belgian Beer Café would be able to offer an additional 16 Sunday hours per week for casuals, and we would open most public holidays. That works out at around an additional 120 casual hours for public holidays, as well as the hours worked by the trainee and apprentice.
25. The Malvern Hotel would employ an extra casual every Sunday and open all of the public holidays we are now closed. That equates to around 94 labour hours (for both full time and casual) 11 days per week. *20/11/11*



#SWORN #AFFIRMED

At [place]

On [date]

Signature of deponent

Name of witness

On [date]

Address of witness

Capacity of witness

MELBOURNE

1 JULY 2015

JOHN SWEETMAN

1 JULY 2015

11 DALE STREET BULLEEN VICTORIA.
[~~#Justice of the peace~~ ~~#Solicitor~~ ~~#Barrister~~ ~~#Commissioner~~
for affidavits ~~#Notary public~~]

And as a witness, I certify the following matters concerning the person who made this affidavit (the **deponent**):

- 1 ~~#I saw the face of the deponent. [OR, delete whichever option is inapplicable]~~
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. [1]~~
- 2 ~~#I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]~~
~~#I have confirmed the deponent's identity using the following identification document:~~

Identification document relied on (may be original or certified copy)^[2]

Signature of witness

John Sweetman JP

A JUSTICE OF THE PEACE FOR VICTORIA
REG. No 9983
JOHN COLIN SWEETMAN
11 DALE STREET, BULLEEN, VIC. 3105

[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, Daryl Walker, Revenue Manager of Lillianfels Blue Mountains say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010* (**the Award**).
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

1. I am the Revenue Manager of Lillianfels Blue Mountains which is located at -19 Lillianfels Ave, Katoomba in New South Wales.
2. Lillianfels is a Hotel and opens 24 hours a day, seven days a week.
3. We employ 117 number of employees at Lillianfels. We have around 71 full time including F&B attendants, Cooks, Steward and Guest service attendants from Grade 1 to Grade 5 and 32 casual employees F&B attendants, Cooks, Steward and Guest service attendants from Grade 1 to Grade 3. We have 50 employees on a salary and the rest are covered by Award. There is no enterprise Agreement.

Penalty Rates

3. Around 80 of the people we roster to work weekends and public holidays are those that would prefer to have midweek days off because it suits their lifestyle. Those people include our students who study during the week.
4. Also, when you live and work in the Blue Mountains it can be difficult to attend appointments and run errands in Sydney as a lot of businesses are closed on the weekend.
5. Some staff just prefer having a mix up of the days that they work.

Effect of Penalty Rates

6. The Hotel stays open on Sundays and public holidays as that is our busiest time and we cannot afford to close. Also, the Hotel has to stay open in order to provide services to guests. There is an expectation at a 5 star Hotel that all facilities will remain open.

7. As we are so busy, with an average of 99% occupancy, if a public holiday falls within peak season (winter) we will not compromise on the service that we offer our guests and our housekeeping, dining and recreational facilities are at full capacity.
8. During non-peak season, in order to reduce the impact of penalty rates we will "roll" the servicing of rooms over to the next day that does not attract a penalty rate.
9. To reduce costs we will preference the rostering of salaried, managerial staff rather than our Award-covered employees on Sundays and public holidays. Also, those staff tend to be more efficient which is important when it is so busy.
10. In that regard, due to the influx in our customer numbers the effect of our decision to roster on managerial staff is that there is a disproportionate amount of pressure placed on them. That is not only on the public holiday days, but also because they are working in excess of their usual hours.
11. It also means our more junior staff do not receive shifts, which is a shame as working during a busy period like a public holiday would be invaluable experience for them.
12. Ultimately, the additional financial pressure of paying penalty rates on Sundays and public holidays is passed onto the consumer. We don't apply any surcharge for any service to our guest.

Impact of the proposed change to penalty rates

13. If penalty rates were those being sought by the Australian Hotels Association:

- a. Sundays – 150%;
- b. Public Holidays – 225% full time and part time and 175% casuals; and
- c. Additional Holidays – 200% for full time and part time and 125% casuals,

We would provide more of junior staff with additional shifts 38 hours and training on public holidays, so they could be exposed to working in the Hotel during its busiest period.

14. Further, if penalty rates were those proposed by the AHA there would be no need for us to pass on the additional labour costs to guests.
15. The AHA proposal means that the impact on the business of additional public holidays being declared is reduced, particularly having regard to the number of casuals I employ, and how busy we are over the Easter long weekend (in New South Wales Easter Saturday is declared a public holiday).

#SWORN #AFFIRMED

At [place]

On [date]

Signature of deponent

Name of witness

On [date]

Address of witness

Capacity of witness

KAROOMBA
30/6/15

Rolf Brueggel

30/6/2015

67 Coninde Drive Glenhaven

~~#Justice of the peace~~ #Solicitor #Barrister #Commissioner
for affidavits #Notary public

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR, delete whichever option is inapplicable]
#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

JP: No: 195011

Identification document relied on (may be original or certified copy)^[2]

Signature of witness

[1] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[2] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see [Oaths Regulation 2011](#) or refer to the guidelines in the NSW Department of Attorney General and Justice's "[Justices of the Peace Handbook](#)" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australian Hotels Association

I, William KC Tam, Manager say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Alatai Holiday Apartments

3. I am the Manager of Alatai Holiday Apartments
4. Alatai Holiday Apartments are located on the corner of McMinn and Finnis Streets in Darwin's CBD. We offer studio units as well as two and three bedroom fully self-contained apartments.
5. Alatai Holiday Apartment's trading hours are as follows:
 - a. Monday to Friday – 7am to 9pm
 - b. Weekends – 8am to 4pm
 - c. Public Holidays – 8am to 11am

Staff

6. We employ 12 employees. Around 4 are permanent employees and the rest are casuals at Grade 1 under the Award.
7. All staff are covered by the Award and there is no enterprise agreement.

Penalty rates

8. We reduce the hours of the Hotel on the weekends and public holidays due to the cost of rostering on staff to work. Unfortunately the amount of money that the Hotel makes is insufficient to make justify opening for our regular hours. The weekends are traditionally quieter than during the week in Darwin.
9. The risk of that approach is that people will present at the Hotel after 4pm on a Sunday (which is not unlikely) and we will be unable to provide them with accommodation for the night.

10. As wages are so high, in an attempt to save money on the weekend and public holidays we also cancel our housekeeping service.
11. All of my casual employees are very keen to work on weekends and public holidays due to the money they will receive. In particular, I have 2 university students who ask to work on those days as it suits their lifestyle and study commitments.
12. Unfortunately, as we reduce both staff numbers and opening hours on weekends and public holidays I do not have the additional shifts to provide my casuals.

AHA Penalty Rates Proposal

13. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
14. If the AHA's proposal was accepted, I would extend trading hours on public holidays and weekends. It would be the people of Darwin that would benefit from that change as we could offer people accommodation on the evenings of weekends and public holidays.
15. The quality of service provide to our guests would also improve if the AHA's proposal was accepted as we could afford to service rooms on the weekends.

#SWORN #AFFIRMED

At [place]

Darwin
29th June 2015

On [date]

Signature of deponent



Name of witness

Joson Crisp

On [date]

29th June 2015

Address of witness

Commissioner of Oaths (NT)
Darwin Police Station
Ph. 8901 0208

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner
for affidavits #Notary public]

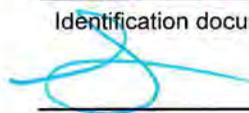
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~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.[1]~~
- 2 #I have known the deponent for at least 12 months. [OR, delete whichever option is inapplicable]
#I have confirmed the deponent's identity using the following identification document:

NT Drivers Licence

Identification document relied on (may be original or certified copy)^[2]

Signature of witness



[¹] The only "special justification" for not removing a face covering is a legitimate medical reason.]

[²] "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION**Review of the *Hospitality Industry (General) Award 2010* and others****PENALTY RATES****Matter No: AM2014/272****Applicant: Australian Hotels Association**

I, Michael Mark Karney, owner of Small Bar Pty Limited say on oath/affirm:

1. I make this affidavit in support of the Australian Hotels Association application to vary the *Hospitality Industry (General) Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would be prepared, if necessary, to give to Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Background

3. I am owner of Small Bar Pty Limited which trades as Bar Petite located at 5/5 King Street Newcastle in New South Wales.
4. Bar Petite is open from 3pm to 12am Monday to Thursday, 12:00pm - 12:00am Friday to Saturday and 12:00pm 10:00pm on Sunday.
5. I employ 10 employees at Bar Petite, all of whom are casuals under the Award. There is no enterprise agreement.

Penalty Rates**Sundays**

6. We reduce staff numbers on a Sunday, and keep our operations as tight as we can. The reason I do that is because I am mindful of the penalty rate cost of employing people on that day, and also it is not a busy evening in Newcastle so our earnings are not as high as Friday and Saturday nights.
7. Even though it is expensive for me to do so, I organise live entertainment on a Sunday afternoon in an attempt to attract more patrons.
8. I would love to open the bar from 10am until 12pm on a Sunday, which we are licenced to do, but it is too expensive to employ staff.

Public Holidays

9. We open on public holidays but only from 5pm until 9pm or 10pm. Given the cost of penalty rates we make no money on a public holiday – the only reason we stay open is to provide a service to our regular customers. Goodwill is a very important part of my business

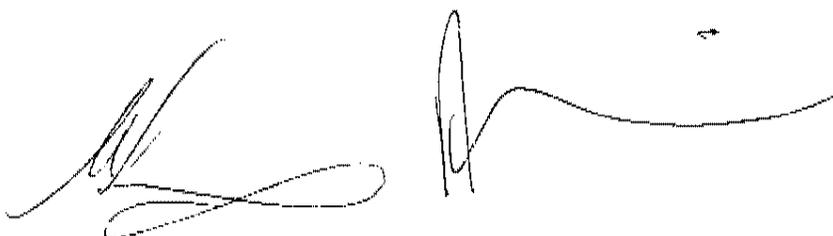


10. For around the last six months there has been a surcharge on the food we sell on a public holiday.
11. Unfortunately my Bar does not have gaming, accommodation or a bottle shop to provide additional earnings on Sundays and public holidays. Also we are unable to charge high prices for the main meal we serve, tapas.
12. My employees are very keen to work on Sundays and public holidays. 4 of them are university students, and working those days suits their lifestyle and study commitments.
13. The cost of wages is impacting on my business, which is already under financial pressure. I have recently been forced to cut our lunchtime menu to 3 days a week as we close from 12 to 3, Monday to Thursday. A lot of bars in Newcastle are following suit and not providing lunch to customers during the week.

Impact of the proposed change to penalty rates

14. If penalty rates were those being sought by the Australian Hotels Association:
 - a. Sundays – 150%;
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% for full time and part time and 125% casuals,

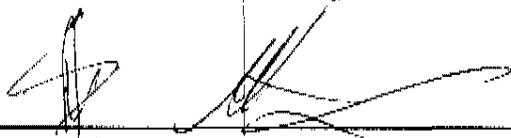
I would re-commence serving lunch from Mondays to Thursday with excess money from the reduced labour cost.
15. As someone that prides themselves on offering good quality service it is disappointing that I am unable to provide my clients with more staff on the floor to take their orders on Sundays and public holidays.
16. If penalty rates were those proposed by the AHA I would consider employing additional staff from within the community to work on a Sunday, particularly wait staff to improve service for the floor.
17. The AHA proposal would also mean that the impact on the business of additional public holidays being declared is reduced.



1.7.15

#SWORN ~~#AFFIRMED~~ at NEWCASTLE

Signature of deponent



Name of witness

ANDREW HARRISON

Address of witness

LVL 1, 1 MARLET STREET, NEWCASTLE

Capacity of witness

~~Justice of the peace~~ #Solicitor #Barrister #Commissioner for affidavits #Notary public

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

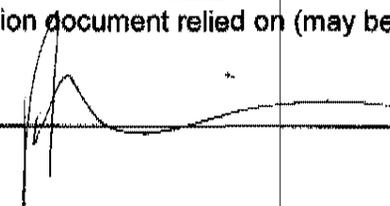
1 #I saw the face of the deponent. [~~OK, delete whichever option is inapplicable~~]
~~#I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering.¹~~

2 #I have known the deponent for at least 12 months. [~~OK, delete whichever option is inapplicable~~]
#I have confirmed the deponent's identity using the following identification document:

DRIVERS LICENCE 7088AS

Identification document relied on (may be original or certified copy)²

Signature of witness



¹ The only "special justification" for not removing a face covering is a legitimate medical reason.)

² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address:
<http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]

IN THE FAIR WORK COMMISSION

Review of the *Hospitality Industry (General) Award 2010* and others

PENALTY RATES

Matter No: AM2014/272

Applicant: Australlan Hotels Association

I, Graham Annovazzi, Hotel Owner say on oath/affirm:

1. I make this affidavit in support a review of the penalty rates contained in the *Hospitality Industry General Award 2010 (the Award)*.
2. This affidavit by me accurately sets out the evidence that I would have prepared, if necessary, to give to the Fair Work Commission. This affidavit is true and correct to the best of my knowledge and belief.

Capertee Royal Hotel

3. I, along with my partner Catherine Palme, am the owner of Capertee Royal Hotel at 67 Castlereagh Highway Capertee, New South Wales 2846. I have owned and managed the Capertee Hotel since 2010.
4. Capertee is a village approximately 45km north of Lithgow. Capertee is highly dependent on tourism.
5. The Hotel Industry in Capertee is an extremely tough industry. Since I purchased the Hotel in 2010 seven out of the closest 10 businesses owning or managing hotels to the Capertee Royal Hotel have gone bankrupt.
6. The Hotel is open the following hours:
 - a. Monday and Tuesday from midday until 9.00pm
 - b. Wednesday and Thursday – Closed
 - c. Friday – midday until late
 - d. Saturday and Sunday – 11.00am until late.
7. The Hotel survives on tourism the town receives on the weekend as opposed to any business it receives from the locals. A majority of the Hotel's patrons use the Hotel's facilities as a pit stop in their travels.
8. The Hotel has a reputation for being a family friendly venue.
9. I am currently in the process of adding 24 cabins offering accommodation services. Once these are available, it will mean additional staff will be required to cater to the patron's requirements.



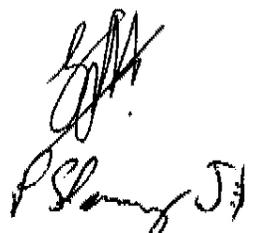
Alan J.P.

Staff

10. I employ up to 10 staff members at a time. All of the staff members are casuals. I would like to employ more staff and make some of them permanent however due to the unpredictable nature of the business, it is not possible to do so.
11. The current casuals I employ are the following classifications under the Award:
 - a. **Grade 1 Kitchen attendant (Level 1)**
 - b. **Grade 3 Cook (Level 4)**
 - c. **Grade 3 Bar attendant (Level 3)**
12. The Award applies to all staff members.
13. There is no enterprise agreement.
14. It is very difficult to find and retain staff due to its small population size (30 people) and a lack of willingness to work by residents.

Penalty Rates: Sundays and Public Holidays

15. The Hotel is currently open on all public holidays except for Good Friday and Christmas Day. The reason the Hotel is closed on these two public holidays is because no take away alcohol sales are allowed so it is not profitable to open given the additional cost caused by the penalty rates imposed on these days.
16. Due to the penalty rates on public holidays, I do not roster any staff on. My wife and I work these days. Therefore, as there are only two people staffing the Hotel, patrons have to wait longer to be served.
17. I have recently introduced a 10% surcharge on meals on public holidays. Although about 80% of the patrons accept this surcharge, the other 20% who are mostly locals do not like it and I have received a number of complaints about the additional cost.
18. Once the cabins are operational, no rooms will be made up on a Sunday or public holiday unless it is required in order to minimise the additional costs caused by the current penalty rates.
19. As a result of having to pay the current penalty rates imposed on Sundays and public holidays, the Hotel has been put in a position whereby:
 - a. it cannot afford to offer entertainment or the like to its patrons on Sundays and public holidays discouraging community and family interaction;
 - b. patrons are subject to generally higher prices in the order that a surcharge of 10% on Sundays and public holidays applies. I have been criticised by my patrons in respect of this business decision; and
 - c. a delayed service is provided to our patrons on Sundays and public holidays due to insufficient staff .



P. Slattery J.

AHA Penalty Rates Proposal

- 20. I am aware that the AHA is seeking an amendment to the penalty rates to:
 - a. Sundays – 150%; and
 - b. Public Holidays – 225% full time and part time and 175% casuals; and
 - c. Additional Holidays – 200% full time and part time and 125% casuals.
- 21. If this proposal is accepted, it would be possible to offer staff more work and offer customers a full service at all times and it may be possible to remove the surcharge currently imposed on public holidays.
- 22. It would also provide greater flexibility and incentive to invest in the Hotel for the benefit of its patrons, staff and community.

#SWORN #AFFIRMED at

Signature of deponent

P.A. Morozz

Name of witness

PAUL DOWNNEY

Address of witness

4895 CASTLEROSH HIGHWAY CARRERE NSW 2846

Capacity of witness

[#Justice of the peace #Solicitor #Barrister #Commissioner for affidavits #Notary public]

And as a witness, I certify the following matters concerning the person who made this affidavit (the deponent):

- 1 #I saw the face of the deponent. [OR delete whichever option is inapplicable]
 - #I did not see the face of the deponent because the deponent was wearing a face covering, but I am satisfied that the deponent had a special justification for not removing the covering. 1 *PMJ*
- 2 #I have known the deponent for at least 12 months. [OR delete whichever option is inapplicable]
 - #I have confirmed the deponent's identity using the following identification document:

NSW DRIVERS LICENSE

Identification document relied on (may be original or certified copy)²

BOTH ITEMS 2 USED PMJ

Signature of witness

P.S. Downey J.P. 135973

[¹ The only "special justification" for not removing a face covering is a legitimate medical reason.]

[² "Identification documents" include current driver licence, proof of age card, Medicare card, credit card, Centrelink pension card, Veterans Affairs entitlement card, student identity card, citizenship certificate, birth certificate, passport or see Oaths Regulation 2011 or refer to the guidelines in the NSW Department of Attorney General and Justice's "Justices of the Peace Handbook" section 2.3 "Witnessing an affidavit" at the following address: <http://www.jp.nsw.gov.au/Documents/jp%20handbook%202014.pdf>]