

17 February 2016

Award Modernisation Team
Fair Work Commission

BY EMAIL - amod@fwc.gov.au

Dear Sir/Madam

AM2015/305 - 4 Yearly Review of Modern Awards - Penalty Rates

As South Australia's peak Chamber of Commerce and Industry, Business SA is South Australia's leading business membership organisation. We represent thousands of businesses through direct membership and affiliated industry associations.

These businesses come from all industry sectors, ranging in size from micro-business to multi-national companies. Business SA has over 700 members in the retail and hospitality sectors.

We have reviewed the written submissions filed on behalf of Australian Chamber of Commerce and Industry (**ACCI**), the New South Wales Business Chamber (**NSWBC**) and Australian Business Industrial (**ABI**) in the above proceedings on 2 February 2016.

We understand that ABI and NSWBC have filed claims seeking:

1. to reduce the public holiday penalty rate for full-time and part-time employees employed under the *Restaurant Industry Award 2010* (**Restaurant Award**) and the *General Retail Industry Award 2010* (**Retail Award**) from 250% to 200%;
2. to reduce the public holiday penalty rate for casual employees employed under the Restaurant Award and the Retail Award from 250% to 125% (including the casual loading);
3. to reduce the Sunday penalty rate for all employees employed under the Retail Award from 200% to 150% (inclusive of casual loading for casual employees); and
4. to vary the relevant pay rates for employees who receive time off in lieu when they work a public holiday under the Restaurant Award so that employees would receive 100% of their ordinary pay for working the public holiday, whilst also receiving time off in lieu.

We support all of these claims.

Based on feedback from our membership, Business SA has become aware that the present regime of penalty rates is currently constraining:

- (a) the number of hours that our members open;
- (b) the number of trading days that our members operate;

- (c) the number of employees that our members can hire and keep employed;
- (d) the number of hours that our members can offer their employees to work; and
- (e) the revenue and profit generated by our members.

If the NSWBC and ABI claims are granted, we envisage that the adverse affects discussed above would be lessened.

We consider that the changes proposed by NSWBC and ABI are necessary to ensure the business performance, competitiveness and long term economic sustainability of our members, as well as boosting employment and the Australian economy more broadly.

Accordingly, we respectfully urge the Fair Work Commission to make the variations outlined above.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Nigel McBride', with a stylized flourish at the end.

Nigel McBride

Chief Executive Officer