

24 March 2017

Associate to President Iain Ross
Fair Work Commission
Level 4, 1 Exhibition Street
Melbourne VIC 3000
Via email: chambers.ross.j@fwc.gov.au

Dear Associate

**4 yearly review of modern awards – Sunday Penalty Rates (AM2014/305)
Transitional Arrangements**

In the *4 Yearly review of modern awards - Penalty Rates [2017] FWCFB 1001* decision delivered on 23 February 2017, the Full Bench determined to reduce the Sunday penalty rates in the General Retail Industry Award 2010, Hospitality Industry (General) Award 2010, Pharmacy Industry Award 2010 and Fast Food Industry Award 2010.

The Chamber of Commerce and Industry Queensland (CCIQ) believes the Fair Work Commission has adopted a common sense and practical approach to penalty rates, particularly for the retail and hospitality sectors. Penalty rates have long been a drain on productivity and Queensland business competitiveness and reform had been long overdue.

CCIQ supports the Full Bench with regards to implementing transitional arrangements to be applied in reducing Sunday penalty rates. However, the Chamber believes that the process should take effect without delay (1 July 2017) and not take longer than 16 months to fully implement given the current challenges facing businesses and our economy.

In its March 2017 outlook report on commercial risks, SV Partners warns that accommodation, food and retail sectors have the highest percentage of companies facing financial risk over the next year. Per the firm's analysis, 6.7% of businesses in the food and accommodation sector are at risk of imminent failure.

Their analysis showed high operational costs and wages in particular are contributing to the tough conditions for businesses, pointing to the high exit rate of food businesses at the end of last financial year.

In line with the Australian Chamber of Commerce and Industry, CCIQ agrees that a delay to the commencement of the reductions in Sunday penalty rates past 1 July 2017 would:

- a. Prolong a situation in which minimum rates of pay for Sunday work are based on a consideration found to no longer be relevant, being the deterrence of Sunday work.
- b. Prolong a situation in which existing Sunday penalty rates in Hospitality, Fast Food, Retail and Pharmacy Awards are not achieving the modern awards objective (s.134 of the Fair Work Act 2009 (Cth)).
- c. Prolong a situation in which existing Sunday penalty rates in Hospitality, Fast Food, Retail and Pharmacy Awards are not providing a fair and relevant minimum safety net.
- d. Prolong a situation in which minimum rates of pay for Sunday work are based on levels of disutility for employees that:
 - i. No longer exist / are no longer relevant.
 - ii. Exceed those this Full Bench found exist in contemporary Australia.

With respect to transitional arrangements, CCIQ proposes the Fair Work Commission adopt the following proposal:

On 1 July 2017

- (i) Reduce *casual* and *permanent* penalty rate from 200% to 175% (Retail and Pharmacy Awards)
- (ii) Reduce *casual* and *permanent* penalty rate from 175% to 150% (Fast-food and Hospitality Award)
- (iii) Reduce *permanent* penalty rates from 150% to 125% (Fast-food Award)

On 1 July 2018

- (i) Reduce permanent penalty rate from 175% to 150% (Retail and Pharmacy Awards)

This proposal will reflect a maximum of 25% reduction to rates on 1 July 2017, with the more substantive penalty rate reduction of 50% (applicable to the Retail and Pharmacy Awards) phased over a 16-month period. Over such time, annual wage increases will allow for a level of offset to the reduction, as well as allow for sufficient time for employees to adjust to the new rates of pay.

Furthermore, CCIQ does not support any grandfathering arrangements for existing employees which would see employees doing the same work at the same time, entitled to different rates of pay. This would also

increase the regulatory burden on businesses and other administration on-costs such as added payroll complexity.

We thank the Commission for the opportunity to provide comment and welcome any feedback. Please contact Kate Whittle, General Manager - Advocacy, at kwhittle@cciq.com.au for matters relating to this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'K Whittle', with a long horizontal flourish extending to the right.

K.W. Kate Whittle
General Manager - Advocacy
Chamber of Commerce and Industry Queensland