

13<sup>th</sup> February 2015

Justice Ross AO  
President, Fair Work Commission  
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MELBOURNE VIC 3000

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Dear Justice Ross,

RE: 4 Yearly Reviews of Modern Awards – Public Holidays  
Matter No: AM 2014/301

The Australian Hotels Association (SA) (AHA|SA) is advising the Fair Work Commission of its intention to participate in the conduct of proceedings for an Application lodged by the Restaurants & Catering Association in the conduct of the above Modern Award - Common Matter. This is as part of the Australia Hotels Association National (AHA National) Application in the Public Holiday Common Issues proceedings.

The Outline of Submission of the Restaurants and Catering Association of the 1<sup>st</sup> December, 2014 as lodged with Fair Work Commission, identified its intent to seek a reduction of the Penalty Rate to apply to Employees who work on South Australian Government prescribed Public Holidays Legislation that created Part-Day Public Holidays to apply on Christmas Eve and New Years for work required to be performed between the hours of 7.00pm to Midnight on those days. These provisions were implemented from 2012 and have continued to apply in 2013 and 2014 on interim provisions approved on a yearly basis for all Modern Awards.

The AHA|SA has been a party to the process of implementing interim provisions into its applicable Modern Award, the Hospitality Industry (General) Award 2010, (the HIGA) at Schedule H – Part-Day Public Holidays. The AHA|SA has represented its members annually in the process of considering these interim provisions.

The nature of the application of these Part-Day Public Holiday provisions on the prescribed days has had an impact on all venues in the Hospitality Sector who would conduct business services over those hours on those days, particularly due to the requirement of the prescribed Public Holiday Penalty Rates to be applied on those days.

This situation became more significant for South Australian Hotels, from the 1<sup>st</sup> January, 2015, following the cessation of the provisions contained in Schedule B – of the HIGA, Transitional provisions in respect of South Australia having ceased on the 31<sup>st</sup> December, 2014. The principal impact arising from the cessation of the 50% Casual Loading as contained at Clause B.3.1 (fa) (iii), which applied as the wage rate penalty for all hours worked over twenty four (24) hours a day, Seven (7) Days a week, whether weekends or Public Holidays.

The HIGA Public Holiday rate of 275% will now be required to apply to Casual Employees who may be rostered to work on the prescribed Part-Day Public Holidays.

The concerns outlined by the Restaurant and Catering Association and the Accommodation Association of Australia in their respective Outline of Submissions of the 1<sup>st</sup> December, 2014, are consistent with those of the AHA|SA.

It is confirmed, that the AHA|SA is a branch of the Australian Hotels Association National (AHA National) organisation and is a party to the AHA National Application in the Public Holiday common issues proceedings principally to see the capping of the number of Public Holidays upon which award derived entitlements apply.

The AHA National Draft Determination acknowledges the application of the Part-Day Public Holidays provisions in Schedule H of the HIGA and provides the opportunity to respond to the concerns of the AHA|SA, The Accommodation Association of Australia and Restaurant and Catering Association.

Consequently, the AHA|SA advises the Fair Work Commission that it will be a participant in the proceedings relating to the impact of Part-Day Public Holidays.

The AHA|SA acknowledges that other parties have lodged Outline of Submissions relating specifically to Part-Day Public Holidays in South Australia and that it will be a participant for the conduct of those proceedings as conducted by the Fair Work Commission.

Yours faithfully



Trevor Evans  
Manager, Industrial Relations and Human Resources

Atts: