

Award Review 2014
Public Holidays Common Issue
AM2014/301

Shop Distributive and Allied Employees' Association

Submission

10 October 2016

Introduction

1. The SDA provides the following Public Holidays submission as part of the 4 yearly Review of Modern Awards in accordance with the directions issued by FWC on the 27 April 2016.
2. The SDA seeks to vary seven awards to rectify an anomaly relating to public holidays for workers with non-standard work arrangements. The awards are:

General Retail Industry Award 2010

Hair and Beauty Industry Award 2010

Fast Food Industry Award 2010

Pharmacy Industry Award 2010

Mannequins and Models Award 2010

Storage Services and Wholesale Award 2010

Vehicle Manufacturing, Repair, Services and Retail Award 2010

Context of the Review

3. The FWC considered the conduct of the Four Yearly Review and on 17 March 2014 issued a statement¹ (The Preliminary Jurisdictional decision) outlining some observations including various considerations of the relevant legislation.
4. As part of the statement a useful summary of considerations on the conduct of the Review was included:

Summary

[60] *On the basis of the foregoing we would make the following general observations about the Review:*

1. *Section 156 sets out the requirement to conduct 4 yearly reviews of modern awards and what may be done in such reviews. The discretion in s.156 (2) to make determinations varying modern awards and to make or revoke modern*

¹ [2014] FWCFB 1788

awards in a Review, is expressed in general terms. The scope of the discretion in s.156 (2) is limited by other provisions of the FW Act. In exercising its powers in a Review the Commission is exercising 'modern award powers' (s.134 (2)(a)) and this has important implications for the matters which the Commission must take into account and for any determination arising from a Review. **In particular, the modern awards objective in s.134 applies to the Review.**

2. The Commission must be constituted by a Full Bench to conduct a Review and to make determinations and modern awards in a Review. Section 582 provides that the President may give directions about the conduct of a Review. The general provisions relating to the performance of the Commission's functions apply to the Review. Sections 577 and 578 are particularly relevant in this regard. In conducting the Review the Commission is able to exercise its usual procedural powers, contained in Division 3 of Part 5-1 of the FW Act. Importantly, the Commission may inform itself in relation to the Review in such manner as it considers appropriate (s.590).

3. The Review is broader in scope than the Transitional Review of modern awards completed in 2013. **The Commission is obliged to ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net taking** into account, among other things, the need to ensure a 'stable' modern award system (s.134(1)(g)). The need for a 'stable' modern award system suggests that a party **seeking to vary** a modern award in the context of the Review must **advance a merit argument** in support of the proposed variation. The extent of such an argument will depend on the circumstances. Some proposed changes may be self evident and can be determined with little formality. However, where a significant change is proposed it must be supported by a submission which addresses the relevant legislative provisions and be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation. In conducting the Review the Commission will also have regard to the historical context applicable to each modern award and will take into account previous decisions relevant to any contested issue. The particular

context in which those decisions were made will also need to be considered. Previous Full Bench decisions should generally be followed, in the absence of cogent reasons for not doing so. The Commission will proceed on the basis that prima facie the modern award being reviewed achieved the modern awards objective at the time that it was made.

4. *The modern awards objective applies to the Review. The objective is very broadly expressed and is directed at ensuring that modern awards, together with the NES, provide a ‘fair and relevant minimum safety net of terms and conditions’.*

5. *In the Review the proponent of a variation to a modern award must demonstrate that if the modern award is varied in the manner proposed then it would only include terms to the extent necessary to achieve the modern awards objective (see s.138). What is ‘necessary’ in a particular case is a value judgment based on an assessment of the considerations in s.134(1)(a) to (h), having regard to the submissions and evidence directed to those considerations.*

(emphasis added)

5. In conducting the 4 yearly review of modern awards pursuant to s 156 of the Fair Work Act 2009 (the **Act**), the Commission must review each modern award² against the modern awards objective so as to ensure that modern awards, together with the National Employment Standards (**NES**), “*provide a fair and relevant minimum safety net of terms and conditions*”, taking into account the considerations set out in s 134(1)(a)-(h) of the Act.

6. Section 134 (1) of the Act states:

- (1) *The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:*
- (a) *relative living standards and the needs of the low paid; and*
 - (b) *the need to encourage collective bargaining; and*
 - (c) *the need to promote social inclusion through increased workforce participation; and*

² Section 156(5) of the Act.

- (d) *the need to promote flexible modern work practices and the efficient and productive performance of work; and*
- (da) *the need to provide additional remuneration for:*
 - (i) *employees working overtime; or*
 - (ii) *employees working unsocial, irregular or unpredictable hours; or*
 - (iii) *employees working on weekends or public holidays; or*
 - (iv) *employees working shifts; and*
- (e) *the principle of equal remuneration for work of equal or comparable value; and*
- (f) *the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and*
- (g) *the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and*
- (h) *the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.*

*This is the **modern awards objective**.*

7. These criteria are “broad considerations which the Commission must take into account in *considering whether a modern award meets the objective set by s 134(1)*”.³ No particular weight should be attached to any one consideration over another; and not all of the matters identified in s 134(1) will necessarily be relevant to a particular proposal to vary a modern award.⁴ To the extent there is any tension between some of the considerations in section 134(1), “*the Commission’s task is to balance the various considerations and ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net of terms and conditions.*”⁵

General approach

8. The Preliminary Jurisdictional decision provided detailed guidance about the conduct of the 4 yearly review and related jurisdictional issues. At [23] the Full Bench stated (emphasis added):⁶

³ *National Retailers Association v Fair Work Commission* (2014) 225 FCR 154, [109] (Collier, Bromberg, Katzman JJ).

⁴ *Four Yearly Review of Modern Awards – Annual Leave* [2015] FWCFB 3406, [19], [20] (the **Annual Leave decision**).

⁵ *Ibid*, [20].

⁶ [2014] FWCFB 1788 at [23], [24], [27], footnotes omitted

The Commission is obliged to ensure that modern awards, together with the NES, provide a fair and relevant minimum safety net taking into account, among other things, the need to ensure a 'stable' modern award system (s.134(1)(g)). The need for a 'stable' modern award system suggests that a party seeking to vary a modern award in the context of the Review must advance a merit argument in support of the proposed variation. The extent of such an argument will depend on the circumstances. We agree with ABI's submission that some proposed changes may be self evident and can be determined with little formality. However, where a significant change is proposed it must be supported by a submission which addresses the relevant legislative provisions and be accompanied by probative evidence properly directed to demonstrating the facts supporting the proposed variation.

9. The proposed changes the SDA seeks to make to the awards in this matter is underpinned by a cogent merit argument supported by probative evidence properly directed to demonstrating the facts supporting the proposed variations.

Public Holidays

10. The National Employment Standards (NES) in the Fair Work Act provide that eight named public holidays plus days or part-days declared or prescribed by a State or Territory as a public holiday shall apply to workers in Australia. (S.115(1))
11. There are between 10 and 13 regular public holidays in each State and Territory. (See Attachment 1)
12. Any substitution of a public holiday to another day or declaration or prescribing of an additional public holiday by a State or Territory has effect by virtue of the provisions of the NES. (s.115(1) and (2))
13. When New Year's Day, Australia Day, Anzac Day, Christmas Day and Boxing Day fall on a Saturday or a Sunday various States and Territories provide either a substitute public holiday or an additional public holiday on the following Monday and/or Tuesday as appropriate (see Attachment 2)
14. The Fair Work Act provides that awards may supplement NES entitlements. The Fair Work Commission has determined that there is merit in supplementing the public holiday provisions of the NES and has inserted public holiday provisions in most if not all awards.

15. Full time and five day a week part time employees who work Monday to Friday receive the benefit of most public holidays except Easter Saturday and , where applicable, Easter Sunday. States and Territories have legislated to provide that in respect of most moveable public holidays whenever they fall on a Saturday or a Sunday there will be an additional public holiday or a substitute public holiday on the following Monday and/or Tuesday as appropriate. This means that generally Monday to Friday workers do not miss out on public holidays. For example in Victoria in 2016 Monday to Friday workers will receive the benefit of 11 public holidays.

16. Workers with non-standard work arrangements are disadvantaged compared to Monday to Friday workers when a public holiday falls on their non-working day. They lose the benefit of the public holiday.

17. The SDA proposes that the provisions regarding public holidays be varied by inserting the following subclause:

This subclause applies to full time employees, and to part time employees who work an average of five days per week.

If a public holiday or a part-day public holiday falls on a day an employee is not rostered to work they shall be entitled to receive by mutual agreement:

a) Another day or part-day off in lieu; or

b) An equivalent day or part-day's pay; or

c) One extra day or part-day added to his or her annual leave.

This subclause shall not apply to public holidays falling on a Saturday or a Sunday (except where they are substituted to another day) nor to part-day public holidays of less than eleven hours.

18. The Storage Services and Wholesale Award 2010 and the Vehicle Manufacturing, Repair Services and Retail Award 2010 already incorporate a similar provision limited to compensation for a public holiday falling on an RDO arising from the 38-hour working week. But neither makes provision for a public holiday falling on any other non-working day. We seek to rectify this. The wording in our draft clauses is different in these two awards compared to the other five awards as we seek to have internal consistency of wording. However the entitlements are similar to what we seek in the other five awards:

Public holiday falling on a non-rostered day

This subclause applies to full time employees, and to part time employees who work an average of five days per week.

If a public holiday or a part-day public holiday falls on a day an employee is not rostered to work (other than a rostered day off) the employee shall be granted an alternative day or part-day off to be determined by mutual agreement between the employer and the employee.

This subclause shall not apply to public holidays falling on a Saturday or a Sunday (except where they are substituted to another day) nor to part-day public holidays of less than eleven hours.

19. If the Commission wishes to maintain a common clause across all awards we would propose that it be the clause in paragraph 17 above.
20. In the proposed clauses which we have drafted we have excluded public holidays falling on a Saturday or a Sunday so that workers with non-standard work arrangements are treated the same in respect of Saturdays and Sundays when they are not rostered to work as are Monday to Friday workers.
21. A similar claim was made by the SDA and some other unions in the 2012 Transitional Review. In a decision dated 12 April 2013 a Full Bench of the Commission found that the claim was “not without merit” but that there was “little or no evidence” and the claim was “more appropriately dealt with in the 4 yearly review of modern awards provided for in S156 of the FW Act”:

[23] We further note that in relation to retail and related industries, much of the evidence went to the issue of the voluntary nature of work on public holidays under legislation, primarily in NSW and in the ACT, and under former awards and collective industrial instruments negotiated by the SDA.

[24] There is also some evidence regarding the impact of public holiday penalty rates upon employers in the retail, fast food and hair and beauty industries and the ANF provided some evidence dealing with employee preference for public holiday compensation arrangements.

[25] There is little or no evidence dealing with other aspects of the public holiday applications before us....

[66] While this aspect of the ACTU's claim is not without merit it does constitute a substantial variation of the award safety net and in our view is more appropriately dealt with in the 4 yearly review of modern awards provided for in s.156 of the FW Act. The Transitional Review is quite separate from, and narrower in scope than, the 4 yearly reviews...

[67] On the material before us there is insufficient information to adequately assess the impact of the proposed change.⁷

22. The SDA has made claims in this, the 2014 review, and on this occasion has provided substantial evidence in relation to the claims.

23. Our application is supported by

- * The evidence of witnesses demonstrating the disadvantage suffered by workers on non-standard work arrangements.
- * Test case decisions of the Australian Industrial Relations Commission
- * The similar provision existing in 46 other modern awards
- * The similar provision which existed in various predecessor awards to the modern awards

Disadvantage suffered by Workers on Non-Standard Work Arrangements

24. Workers on non-standard work arrangements suffer a disadvantage in respect of public holidays compares to Monday to Friday workers. The disadvantage is two-fold. It is both quantitative and qualitative.

25. Workers on non-standard work arrangements suffer a quantitative disadvantage in respect of public holidays because workers may receive fewer public holidays than a Monday to Friday worker. The difference in the number of public holidays may be quite large. Therefore a worker on non-standard work arrangements may be require to work more days and more hours in a year than their fellow worker in the same industry or in other industries without any compensating benefit. That is unfair.

⁷ [2013] FWCFB 2168, decision of 12 April 2013

26. Workers on non-standard work arrangements also suffer a qualitative disadvantage in respect of public holidays. Monday to Friday worker will receive the benefit of a four day break at Easter and a four day break whenever Christmas Day and/or Boxing Day fall on a Saturday and/or a Sunday. Because of the perceived need to provide service to the public, workers in service industries may need to attend for work on one or more of the days over the Easter or Christmas break and thus miss out on a four day break.
27. The SDA has provided witness evidence of 15 employees in the areas of coverage of the applications by the SDA. A list of the witnesses is shown in Attachment 3. The witness statements are Attachments 4 to 18. A summary of the evidence is outlined below.
28. [REDACTED] is a full time car salesman employed by [REDACTED] [REDACTED] Victoria. He is covered by the Vehicle, Manufacturing, Repair Services and Retail Award 2010. He is rostered on Monday, Tuesday, Thursday, Friday and Saturday each week. On a number of occasions his roster has been changed in the week in which a public holiday occurs. From 2 October 2015 to 30 October 2015 he missed out on 12 public holidays and did not receive any compensation for missing out on 12 public holidays.
29. [REDACTED] is a full time employee at [REDACTED], Victoria. She is covered by the General Retail Industry Award 2010. She is currently working a two week roster of Tuesday, Wednesday, Thursday, Friday, Saturday in one week and Tuesday, Thursday, Friday, Saturday, Sunday in the other week. From 1 January 2015 to 5 October 2016 she missed out on 3 public holidays falling on her non-working days and did not receive any compensation for missing out on 3 public holidays. She also missed out on 8 other public holiday as her roster was changed in the week in which a public holiday occurred. This makes a total of 11 public holidays she missed out on.
30. [REDACTED] is a full time employee at [REDACTED] in [REDACTED] Victoria. She is covered by the General Retail Industry Award 2010. She is rostered on 5 days per week from Tuesday to Saturday each week. From 1 January 2015 to 5 October 2016 she missed out on 10 public holidays and did not receive any compensation for missing out on 10 public holidays.

31. [REDACTED] is a part time employee at [REDACTED] in [REDACTED] NSW working 30 hours per week. She is covered by the General Retail Industry Award 2010. She is on a two week roster working Monday to Friday in one week and Tuesday to Saturday in the other. From 3 April 2015 to 6 October 2016 she missed out on 12 public holidays and did not receive any compensation for missing out on 12 public holidays.
32. [REDACTED] is a full time employee at [REDACTED] SA. She is covered by the Pharmacy Industry Award 2010. She is on an alternating roster working Monday to Friday in one week and Tuesday to Saturday in the second week. From 1 January 2015 to 8 October 2016 she missed out on 8 public holidays and did not receive any compensation for missing out on 8 public holidays.
33. [REDACTED] is a full time employee at [REDACTED] in [REDACTED] Victoria. He is covered by the [REDACTED] Enterprise Agreement. The underpinning award is the Storage Services and Wholesale Award 2010. Until on or about August 2016 he was rostered on 4 days per week from Tuesday to Friday each week. Since then he is rostered on 4 days per week from Wednesday to Saturday each week. From 1 January 2015 to 6 October 2016 14 public holidays fell on days he was not rostered to work. He was provided with either an additional day off in lieu or an additional day's pay in accordance with clause 18 of the agreement.
34. [REDACTED] is a full time employee at the [REDACTED] in [REDACTED] Victoria. He is covered by the [REDACTED] Agreement. The underpinning award is the Storage Services and Wholesale Award 2010. He is rostered on 4 days per week from Tuesday to Friday each week. From 1 January 2015 to 6 October 2016 14 public holidays fell on days he was not rostered to work. He was provided with either an additional day off in lieu or an additional day's pay in accordance with clause 18 of the agreement.
35. [REDACTED] is a full time store manager of the [REDACTED] in [REDACTED], Victoria. She is covered by the Hair and Beauty Industry Award 2010. The salon employs a second year apprentice, [REDACTED]. [REDACTED] is aware that the Hairdressing and Beauty Services Victoria Award 2001 provided another day off, an equivalent day's pay or an

extra day added to annual leave if a public holiday fell on a day a full time employee or a part time employee regularly working 5 days per week was not rostered to work. She continues to apply the same benefit to [REDACTED]. She supports the SDA application in this matter.

36. [REDACTED] is a full time employee at [REDACTED] Victoria. He is covered by the General Retail Industry Award 2010. His rostered hours are across Monday, Wednesday, Thursday, Friday and alternating between Saturday and Sunday each week. In the last twelve months he missed out on 3 public holidays and did not receive any compensation for missing out on 3 public holidays.

37. [REDACTED] is a full time employee at [REDACTED], Victoria. He is covered by the General Retail Industry Award 2010. He is rostered on 5 days per week from Thursday to Saturday each week. Since 15 March 2016 he has missed out on 3 public holidays in a period of 6 months and did not receive any compensation for missing out on 3 public holidays. Over a full year he believes it is most likely he will miss out on further public holidays. In previous employment he worked from Monday to Friday at [REDACTED] and received the benefit of every public holiday that fell on a weekday of his normal roster.

38. [REDACTED] is a full time store manager at [REDACTED], Victoria. She is covered by the General Retail Industry Award 2010. She is rostered to work Tuesday to Saturday each week. She receives another paid day off as a compensation when a public holiday falls on her rostered day off. In previous employment she worked 26 hours per week from Sunday to Thursday each week as second in charge to the store manager at [REDACTED] Victoria. The Store Manager at [REDACTED] received compensation for missing out on public holidays that fell on a day she was not rostered to work. [REDACTED] did not receive such compensation. From 2 October 2015 to 25 May 2016 she missed out on 4 public holidays and did not receive compensation for missing out on 4 public holidays.

39. [REDACTED] [REDACTED] [REDACTED] is a part time employee working 32 hours per week at [REDACTED] Brisbane, Queensland. She is covered by the General Retail Industry Award 2010. She is rostered to work on 5 days per week from

Sunday to Thursday. From 3 April 2015 to 28 September 2016 she missed out on 7 public holidays and did not receive compensation for missing out on 7 public holidays.

40. [REDACTED] is a full time store manager at [REDACTED], SA. He is covered by the General Retail Industry Award 2010. Until July 2016 he was rostered on 5 days per week from Tuesday to Saturday each week. From July 2016 he is on an alternating roster of Monday to Friday in one week and Tuesday to Saturday in the second week. From 1 January 2015 to 8 October 2016 he missed out on 7 public holidays and did not receive any compensation for missing out on 7 public holidays.

41. [REDACTED] is a second year apprentice at [REDACTED], Victoria. She is covered by the Hair and Beauty Industry Award 2010. She is rostered on 5 days per week from Tuesday to Saturday each week. From 26 January 2015 to 1 October 2016 8 public holidays fell on a week day she was not rostered to work. When that occurred, she received the next day, Tuesday, as a paid day off in compensation. She strongly supports the SDA application in this matter.

42. [REDACTED] is a full time employee at [REDACTED] [REDACTED], Victoria. He is covered by the [REDACTED] [REDACTED] Enterprise Agreement. The underpinning award is the Storage Services and Wholesale Award 2010. Until 15 August 2016 he was rostered from Tuesday to Friday each week. From 16 August 2016 he works Wednesday to Saturday each week. From 1 January 2015 to 6 October 2016 13 public holidays fell on a day he was not rostered to work. He was provided with either an additional day off in lieu or an additional day's pay in accordance with clause 18 of the agreement.

43. The evidence shows

- * A variety of non-standard work arrangements in the industries covered by the relevant awards
- * A significant number of public holiday falling on days employees are not rostered to work
- * Some employers provide compensation to employees on merit or pursuant to an enterprise agreement

- * But some employees lose the benefit of public holidays and receive no compensation for the loss
- * Sometimes the loss may be significant – even in excess of half the number of public holidays in a year
- * Employees suffer a serious disadvantage compared to Monday to Friday workers
- * It is a disadvantage in the real world and not a theoretical disadvantage

44. In S. 134(1) of the Fair Work Act the Commission is required to ensure that modern awards together with the National Employment Standard, provide a fair and relevant minimum safety net of terms and conditions.

45. The clauses we have proposed provide a measure of fairness in respect of public holidays to workers in the industries covered by the awards in these applications.

Test Case Decisions of AIRC

46. The application is supported by the Australian Industrial Relations Commission test case decisions on public holidays in 1994⁸ and 1995⁹.

Those decisions established minimum standards for public holidays in awards and also dealt with public holiday arrangements for persons with non-standard work arrangements.

47. In particular the decision of 20 March 1995¹⁰ said in part:

2- Full Time Workers

We refer here to full-time workers who do not regularly work a five-day, Monday – Friday week. Such workers include persons who work regularly on Saturday or Sunday, workers with variable rosters, continuous shift workers and employees who work nine days per fortnight or 19 days in each four weeks. This list is not intended to be exhaustive.

⁸ Print L4534, decision of 4 August 1994

⁹ Print 9178, decision of 20 March 1995

¹⁰ Print 9178

It may happen that a prescribed holiday falls upon a day when the employee would not be working in any event. Fairness requires that the worker be not disadvantaged by that fact. The appropriate compensation, we think, is

- *an alternative “day off”; or*
- *an addition of one day to annual leave; or*
- *an additional day’s wages*

We understand that such compensation is already provided in many awards.

48. This decision was further expanded on in respect of the retail industry by Commissioner O’Shea who was one member of the Full Bench hearing public holidays test case matters. It was by way of private arbitration or recommendation but effectively became a precedent for the retail industry.

49. The decision on 1 October 1997¹¹ related to whether or not a five day a week part time employee should be entitled to another day off or an equivalent day’s pay or an extra day added to annual leave if a public holiday fell on their non-working day as would a full time employee:

I have considered all the material before the Commission in this matter. The emphases in the Commission’s Test Case Decision concerning non- standard working arrangements were to remark on the wide diversity of working arrangements in place, to set out a series of broad principles and to indicate that the principles pertaining to non-standard working arrangements will be applied sensitively and flexibly, with due regards to special circumstances (Print L9178).

Given these considerations, I am persuaded by the SDA that there is no valid reason why a five-day part-time worker should be treated any less favourably than his or her full time counterpart. The form of the provision sought by the SDA is, in my view, consistent with the intent and direction of the Commission’s Public Holiday Test Case Decision and, in addition, has strong equity advantages.

¹¹ Print 5603

Similar Provisions in 46 Modern Awards

50. The application is supported by the existence of a similar provision to that we are seeking in 46 modern awards (See Attachment 19)
51. Some awards contain a provision referring to a public holiday falling on all non-working days. Some awards contain a provision referring only to a public holiday falling on a rostered day off accruing by virtue of the 38-hour week.
52. The number of modern awards with such a provision is 46, i.e., 38% of all modern awards. So there are already strong precedents for such a provision.
53. Furthermore we note that the Broadcasting and Recorded Entertainment Award 2010 originally excluded such a provision. However arising from an application by the Australian Entertainment and Industry Association for a number of variations, special provisions for cinema workers were added to the public holidays clause. It included the following provision:

*A weekly employee whose rostered time off falls on a Public Holiday will be allowed an additional day off at a time to be agreed upon by the employer and the employee or the employee will be paid an additional day's pay in lieu thereof within seven days of the said holiday.*¹²

So, in at least one instance, after a modern award was made a Full Bench of the Australian Industrial Relations Commission inserted such an entitlement into the modern award.

Similar Provisions in Predecessor Federal Awards to Modern Awards

54. The application is supported by the existence of a similar provision to that we are seeking in the predecessor federal awards to the modern awards the subject of these applications. Awards which contained such a provision were:

Shop, Distributive and Allied Employees Association – Victorian Shops Interim Award 2000

Hair and Beauty Services – Victoria – Award 2001

¹²Print PR992259

National Fast Food Retail Award 2000

Shop, Distributive and Allied Employees Association – Victorian Pharmacy Assistants Award 2000

Vehicle Industry – Repair, Services and Retail Award 2002

Mannequins and Models Award 2000

(See Attachments 20 to 25)

Conclusion

55. The SDA has provided substantial evidence demonstrating that there is an issue to be addressed. It is a matter of fairness to workers on non-standard work arrangements. It is supported by previous test case decisions, by the existence of a similar provisions in 46 modern awards and by the existence of similar provision in six predecessor awards to the modern awards.

56. The variations sought will ensure that the Awards provide a fair and relevant minimum safety net of terms and conditions satisfying the obligations under Section 134 of the Act.

Attachments

1. Regular public holidays in States & Territories
2. Additional public holidays and substitute days when Christmas Day, Boxing Day, New Year's Day, Australia Day and Anzac Day fall on a Saturday or a Sunday
3. List of witnesses
4. Affidavit of [REDACTED] SDA witness A
5. Affidavit of [REDACTED] SDA witness B
6. Affidavit of [REDACTED] SDA witness C
7. Affidavit of [REDACTED] SDA witness D
8. Affidavit of [REDACTED] SDA witness E
9. Affidavit of [REDACTED] SDA witness F
10. Affidavit of [REDACTED] SDA witness G
11. Affidavit of [REDACTED] SDA witness H
12. Affidavit of [REDACTED] SDA witness I
13. Affidavit [REDACTED] SDA witness J
14. Affidavit of [REDACTED] SDA witness K
15. Affidavit of [REDACTED] SDA witness L
16. Affidavit of [REDACTED] SDA witness M
17. Affidavit of [REDACTED] SDA witness N
18. Affidavit of [REDACTED] SDA witness O
19. List of awards with provision for an entitlement when a public holiday falls on RDO or a non working day
20. Extract of Shop, Distributive and Allied Employees' Association – Victorian Shops Interim Award 2000
21. Extract of Hairdressing and Beauty Services – Victoria – Award 2001
22. Extract of National Fast Food Industry Award 2000
23. Extract of Shop, Distributive and Allied Employees' Association – Victorian Pharmacy Assistants Award 2000
24. Extract of Vehicle Industry – Repair, Services and Retail Award 2002
25. Extract of Mannequins and Models Award 2000.

ATTACHMENT 1

REGULAR PUBLIC HOLIDAYS IN STATES & TERRITORIES

NSW

New Year's Day
Australia Day
Good Friday
Easter Saturday
Easter Sunday
Easter Monday
Anzac Day
Queen's Birthday
Labour Day
Christmas Day
Boxing Day

Victoria

New Year's Day
Australia Day
Labour Day
Good Friday
Easter Saturday
Easter Sunday
Easter Monday
ANZAC Day
Queen's Birthday
AFL Grand Final Eve
Melbourne Cup Day
Christmas Day
Boxing Day

Queensland

New Year's Day
Australia Day
Good Friday
Easter Saturday
Easter Monday
Anzac Day
Labour Day
Queen's Birthday
Christmas Day
Boxing Day
Royal Queensland Show
(Brisbane) and regional Show
holidays*
*proclaimed each year

ACT

New Year's Day
Australia Day
Canberra Day
Good Friday
Easter Saturday
Easter Sunday
Easter Monday
Anzac Day
Queen's Birthday
Family and Community Day
Labour Day
Christmas Day
Boxing Day

Tasmania

New Year's Day
Australia Day
Labour Day
Good Friday
Easter Monday
Anzac Day
Queen's Birthday
Christmas Day
Boxing Day
Royal Hobart Regatta
Day/Recreation Day
Royal Hobart Show Day/Royal
Launceston Show Day, etc

SA

New Year's Day
Australia Day
Adelaide Cup Day
Good Friday
Easter Saturday
Easter Monday
Anzac Day
Queen's Birthday
Labour Day
Christmas Day
Boxing Day
(Also from 7pm Christmas Eve
and New Year's Eve)

WA

New Year's Day
Australia Day
Labour Day
Good Friday
Easter Monday
Anzac Day
Western Australia Day
Queen's Birthday
Christmas Day
Boxing Day

NT

New Year's Day
Australia Day
Good Friday
Easter Saturday
Easter Monday
Anzac Day
May Day
Queen's Birthday
Picnic Day
Christmas Day
Boxing Day
Darwin Show Day/Alice Springs Show Day, etc *
*proclaimed each year

ATTACHMENT 2

The current state of play across Australia as of September 2016 is as follows:

Christmas Day, Boxing Day, New Years Day, Australia Day, Anzac Day fall on a Saturday or a Sunday			
Additional Public Holiday or Substitute Day applies:			
	Christmas Day	Boxing Day	New Years Day
NSW	Addnl	Addnl	Addnl
Victoria	Subs	Addnl	Addnl
ACT	Addnl	Addnl	Addnl
Queensland	Addnl	Addnl	Addnl
SA	Sat Subs/Sunday Addnl	Sat Subs/Sunday Addnl	Sat Subs/Sunday Addnl
WA	Addnl	Addnl	Addnl
Tasmania	Addnl	Subs	Subs
NT	Subs	Subs	Subs

	Australia Day	Anzac Day
NSW	Subs	-
Victoria	Subs	-
ACT	Subs	Sat - /Sun subs
Queensland	Subs	Sat - /Sun subs
SA	Sat Subs/Sunday Addnl	Sat - /Sunday Addnl
WA	Subs	Addnl
Tasmania	Subs	-
NT	Subs	Sat - /Sun subs

ATTACHMENT 3

Public Holiday Case 2016 - Witness List

Name:	State/ Territory	Employer:	Award/EBA:
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	NSW	[REDACTED]	[REDACTED]
[REDACTED]	SA	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	QLD	[REDACTED]	[REDACTED]
[REDACTED]	SA	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]
[REDACTED]	Vic	[REDACTED]	[REDACTED]

ATTACHMENT 4

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: The Shop, Distributive and Allied Employees Association

AFFIDAVIT

I [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed as a Full time car salesman by [REDACTED] located at [REDACTED] VIC 3083.
2. I began my employment on 7 September 2015.
3. My terms and conditions of employment are covered by the Vehicle Manufacturing, Repair Services & Retail Award 2010.
4. My hours of work are normally 46.5 hours per week and I am normally rostered on Monday, Tuesday, Thursday, Friday and Saturday and rostered off Wednesday of each week.
5. I have been working such rostered hours since I began my employment in September 2015.
6. From Friday, 2 October 2015, to date my roster is systematically changed so that I am not required to attend work on the public holidays listed below. However, I am still required to work the same number of hours I normally work over 5 days in that week, including Wednesday when I am normally rostered off:
 - Friday, 2 October 2015 – Friday before the AFL Grand Final,
 - Tuesday, 3 November 2015 – Melbourne Cup Day,
 - Friday, 25 December 2015 – Christmas Day,
 - Monday, 28 December 2015 – Additional Day for Boxing Day falling on the Sat.,

[REDACTED]
[Handwritten signature]

- Friday, 1 January 2016 – New Years' Day,
- Tuesday, 26 January 2016 – Australia Day,
- Monday, 14 March 2016 - Labour Day,
- Friday, 25 March 2016 – Good Friday,
- Saturday, 26 March 2016 – Easter Saturday,
- Monday, 28 March 2016 – Easter Monday,
- Monday, 13 June 2016 – Queens Birthday,
- Friday, 30 September 2016 – Friday before the AFL Grand Final,

7. Since September 2015 to date, the only public holiday benefits I have received were:

- Saturday, 26 December 2015 – Boxing Day which I worked and received the higher rate of pay; and
- Labour Day Public Holiday of this year which fell on Monday, March 14th which I worked and received the higher rate of pay and worked my normal roster as described in paragraph 4.

8. I was not rostered to work on Easter Sunday of this year.

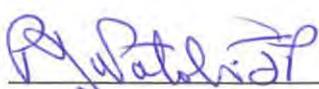
9. Since Friday of 2 October 2015, due to roster changes imposed by my employer when a public holiday has fallen on a day I would normally have been rostered to work, I have missed out on the benefit of Twelve (12) public holidays listed in paragraph 6 with no compensation.

10. To date, I have missed out on a total of Thirteen (13) public holidays since I began my employment with my current employer and received no compensation for missing out on those public holidays.

Affirmed at _____, in the State of Victoria.

This 28TH day of SEPTEMBER, 2016.

Signature of deponent making this Affidavit

Before me: 

1
A JUSTICE OF THE PEACE FOR VICTORIA
Reg. No. 8298
Peter John Natoli

ATTACHMENT 5

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I [REDACTED] of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed by [REDACTED] as a full time employee.
2. I commenced my employment with [REDACTED] in November 2014.
3. I work as a Level 1 retail employee in a [REDACTED] store located at [REDACTED] [REDACTED] VIC [REDACTED].
4. My wages and employment conditions are covered by the General Retail Industry Award 2010.
5. I earn approximately \$730.00 after tax per week
6. My hours of work are 38 hours per week and as of August of this year I consistently work the following regular alternating roster of:
 - Tuesday, Wednesday, Thursday, Friday and Saturday in one week; and
 - Tuesday, Thursday, Friday, Saturday and Sunday, the other week.
7. From 1 January 2015 to date, the following public holidays fell on a day I was not rostered to work and received no compensation for missing out on the public holidays:
 - Sunday, 5 April 2015 - Easter Sunday,
 - Monday, 14 March 2016 – Labour Day,
 - Sunday, 27 March 2016 – Easter Sunday,
8. When a public holiday listed in paragraph 7 fell on a day I was not rostered to work, my employer did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.
9. My roster normally changes when the following public holiday falls during the week, such that to the best of my recollection when I did not work the public holidays listed below, my roster was changed so that I was still required to work the same full time hours across 5 days in that week:
 - Thursday, 1 January 2015 - New Years' Day,
 - Friday, 3 April 2015 – Good Friday,
 - Saturday, 25 April 2015 – ANZAC Day – attend work in the afternoon and required to make up hours of work during the week of the same hours not required to work in the morning,
 - Friday, 2 October 2015 – Friday before the AFL Grand Final,
 - Friday, 25 December 2015 – Christmas Day,
 - Friday, 1 January 2016 – New Years' Day,
 - Friday, 25th March 2016 – Good Friday,
 - Monday, 25 April 2016 – ANZAC Day – attend work in the afternoon and required to make up hours of work during the week of the same hours not required to work in the morning,

[REDACTED] 

10. From 1 January 2015 to date, I believe I worked the following public holidays at the appropriate public holiday rate of pay:

- Monday, 26 January 2015 – Australia Day,
- Monday, 9 March 2015 – Labour Day,
- Monday, 6 April 2015 – Easter Monday,
- Monday, 8 June 2015 – Queens Birthday,
- Tuesday, 3 November 2015 – Melbourne Cup Public Holiday
- Tuesday, 26 January 2016 – Australia Day,
- Monday, 28 March 2016 – Easter Monday,
- Monday, 13 June 2016 – Queen's Birthday
- Friday, 30 September 2016 – Friday before the AFL Grand Final

11. To date, I missed out on three (3) public holidays listed in paragraph 7 because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays and to the best of my recollection I was required to work the same number of hours in the week that I was rostered off the eight (8) public holidays listed in paragraph 9.

Affirmed at _____, in the State of Victoria.

This 5 day of October, 2016.

NARRE WARREN POLICE STATION
Signature of deponent making this Affidavit
CND LAUDERDALE & COVENTRY RDS
NARRE WARREN 3805 DX 217971

Before me:  **D. G. MOYES F.I.C.M. F.S.I.A. J.P 9494**
P.O. BOX 76, BERWICK. 3806

ATTACHMENT 6

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number:

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed as a full time employee by [REDACTED] located at [REDACTED] VIC [REDACTED].
2. I am a manager of the Deli Department.
3. I commenced my employment on or around June 2013.
4. My wages and employment conditions are covered by the General Retail Industry Award 2010 ('Award').
5. My hours of work are normally 38 hours per week across 5 days per week from Tuesday to Saturday each week.
6. Since 1 January 2015, the following public holidays fell on a day I was not rostered to work:
 - Monday, 26 January 2015 – Australia Day,
 - Monday, 9 March 2015 – Labour Day,
 - Sunday, 5 April 2015 – Easter Sunday,
 - Monday, 6 April 2015 – Easter Monday,
 - Monday, 8 June 2015 – Queens Birthday,
 - Monday, 14 March 2016 – Labour Day,
 - Sunday, 27 March 2016 – Easter Sunday,
 - Monday, 28 March 2016 – Easter Monday,
 - Monday, 25 April 2016 – ANZAC Day,
 - Monday, 13 June 2016 – Queen's Birthday,
7. When the public holidays listed in paragraph 6 fell on a day I was not rostered to work, my employer did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.
8. I worked Tuesday, 3 November 2015 – Melbourne Cup Day.
9. The following public holidays listed below, fell on a day I was rostered to work and I received the day off with pay:
 - Thursday, 1 January 2015 – New Year Day,
 - Friday, 3 April 2015 – Good Friday,

[REDACTED]
W. J. P.

- Saturday, 4 April 2015 – Easter Saturday,
- Saturday, 25 April 2015 – ANZAC Day,
- Friday, 2 October 2015 – Friday before AFL Grand Final,
- Friday, 25 March 2016 – Good Friday,
- Friday, 25 December 2015 – Christmas Day,
- Saturday, 26 December 2015 – Boxing Day,
- Friday, 1 January 2016 – New Year's Day,
- Tuesday, 26 January 2016 – Australia Day,
- Friday, 25 March 2016 – Good Friday,
- Easter Saturday, 26 March 2016,
- Friday, 30 September 2016 – Friday before AFL Grand Final Day.

10. I do not expect my roster to change and is therefore most likely that for the rest of the year I will receive the benefit of the following public holidays:

- Tuesday, 1 November 2016 – Melbourne Cup Day,
- Tuesday, 27 December 2016 – substitution for Christmas Day falling on Sunday.

However, over the Christmas and New Year period 2016/2017, I will most likely miss out on the following public holidays without receiving compensation for missing out on the public holiday:

- Monday, 26 December 2016 – Boxing Day,
- Sunday, 1 January 2017 – New Year's Day,
- Monday, 2 January 2017 – additional Public Holiday

11. Since 1 January 2015 to date, I have missed out on a total of ten (10) public holidays because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays.

Affirmed at [REDACTED] in the State of Victoria.

This 5th day of OCTOBER, 2016.

[REDACTED]

 Signature of deponent making this Affidavit

Before me: David Edwards

DAVID W. EDWARDS, J.P. 10500
 [REDACTED]

ATTACHMENT 7

(A)

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED] in the State of New South Wales do solemnly and sincerely affirm that:

1. I am employed as a 30 hour per week part time shop assistant by [REDACTED] located at [REDACTED] NSW [REDACTED]
2. I am a shop assistant and my duties include front end duties and shelf replenishment.
3. My wages and employment conditions are covered by the General Retail Industry Award 2010 ('Award').
4. I am paid level 1 retail employee under the Award.
5. My rostered hours of work until June 2016 were based on an alternating roster of Monday to Friday in one week and Tuesday to Saturday in the other.
6. The hours of work in my current roster which commenced on or about June 2016 is Tuesday to Saturday each week.
7. I can recall that from Good Friday, 3 April 2015, the following public holidays fell on a day I was not rostered to work:
 - Easter Saturday, 4 April 2015,
 - Easter Sunday, 5 April 2015,
 - Easter Monday, 6 April 2015,
 - Monday, 8 June 2015 – Queen's Birthday,
 - Monday, 5 October 2015 – Labour Day,
 - Monday, 28 December 2015 – Additional day for Boxing Day falling on Saturday,
 - Easter Saturday, 26 March 2016,
 - Easter Sunday, 27 March 2016,
 - Easter Monday, 28 March 2016,
 - Monday, 25 April 2016 – ANZAC Day,
 - Monday, 13 June 2016 – Queen's Birthday,
 - Monday, 3 October 2016 – Labour Day,

This is the annexure marked with the letter A referred to in the Affidavit / Statutory Declaration of sworn/affirmed/declared before me at on the SIXTH day of OCTOBER 2016

One page only Page 1 of pages 2

Trevor Cox
TREVOR COX
 Justice of the Peace Registration 113905



A

- 8. When a public holiday listed in paragraph 7 fell on a day I was not rostered to work, my employer did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.
- 9. From Good Friday, 3 April 2015 the following list of public holidays fell on a day I was rostered to work and I received the day off with pay:
 - Good Friday, 3 April 2015,
 - Saturday, 25 April 2015 – ANZAC Day,
 - Friday, 25 December 2015 – Christmas Day,
 - Saturday, 26 December 2015 – Boxing Day,
 - Friday, 1 January 2016 - New Year's Day,
 - Tuesday, 26 January 2016 – Australia Day,
 - Good Friday, 25 March 2016.
- 10. From Good Friday, 3 April 2015 to date, I missed out on a total of twelve (12) public holidays because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays.
- 11. I do not expect my roster to change for the remainder of the year and therefore over the Christmas and New Year period 2016-2017, it will be very likely that I will miss out on the following public holidays with no compensation as described in paragraph 8:
 - Sunday, 25 December 2016 – Christmas Day,
 - Monday, 26 December 2016 – Boxing Day,
 - Sunday, 1 January 2017 – New Year's Day,
 - Monday, 2 January 2017 – Additional Day for NYD falling on Sunday.

Affirmed at Inverell, in the State of New South Wales.

This SIXTH day of OCTOBER, 2016.

x 

 Signature of deponent making this Affidavit

Before me: Trevor Cecil Cox J.P. 113905
 Witness

This is the annexure marked with the letter A referred to in the Affidavit.
 Statutory Declaration of
 sworn/affirmed/declared before me at
 on the SIXTH day of OCTOBER 2016

One page only
 Page 1 of 2 pages

Trevor Cecil Cox
 TREVOR CECIL COX
 Justice of the Peace Registration 113905

Statutory Declaration of
 sworn/affirmed/declared before me at
 on the

20

One page only
 Page 1 of 2 pages

Trevor Cecil Cox
 TREVOR CECIL COX
 Justice of the Peace Registration 113905

ATTACHMENT 8

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of South Australia do solemnly and sincerely affirm that:

1. I am employed by [REDACTED] as a Full time employee.
2. My place of work is located at [REDACTED] SA [REDACTED].
3. I have been employed with [REDACTED] since July 2000.
4. My wages and employment conditions are covered by the Pharmacy Industry Award 2010 ('Award').
5. I am employed as a Level 2 Pharmacy Assistant under the Award.
6. My full time hours of work are based on an alternating roster across the following days:
 - Monday to Friday in one week; and
 - Tuesday to Saturday in the second week.
7. I have been working such rostered hours since September 2000.
8. From 1 January 2015 to date, the following public holidays fell on a day I was not rostered to work:
 - Monday, 26 January 2015 – Australia Day,
 - Monday, 9 March 2015 – Adelaide Cup Public Holiday,
 - Saturday, 4 April 2015 – Easter Saturday,
 - Monday, 6 April 2015 – Easter Monday,
 - Monday, 5 October 2015 – Labour Day,
 - Monday, 28 December 2015 – Proclamation Day,
 - Monday, 13 June 2016 – Queens Birthday,
 - Monday, 3 October 2016 – Labour Day.
9. I do not work beyond 6pm on Christmas Eve, 24 December or New Year's Eve, 31 December.

[REDACTED]
08/10/16


8/10/16

Monique Jean Chettle
A Commissioner for taking
Affidavits in the Supreme
Court of South Australia.

10. When a public holiday listed in paragraph 8 fell on a day I was not rostered to work, my employer did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.
11. I worked on Easter Saturday, 26 March 2016 and received the higher rate of pay on the day.
12. From 1 January 2015 to date, I received a day off with pay when a public holiday fell on the following days I was rostered to work:
- Thursday, 1 January 2015 – New Year's Day,
 - Friday, 3 April 2015 – Good Friday,
 - Saturday, 25 April 2015 – ANZAC Day,
 - Monday, 8 June 2015 – Queen's Birthday,
 - Friday, 25 December 2015 – Christmas Day,
 - Friday, 1 January 2016 – New Year's Day,
 - Tuesday, 26 January 2016 – Australia Day,
 - Monday, 14 March 2016 – Adelaide Cup Day,
 - Friday, 25 March 2016 – Good Friday,
 - Monday, 28 March 2016 – Easter Monday.
13. I can recall that until on or around September 2014, my employer used to provide me the benefit of another day off with pay when a public holiday fell on a week day that I was not rostered to work. For example, if a public holiday fell on Monday when I was not rostered to work, I would receive the benefit of the following day (Tuesday) off with pay.
14. From 1 January 2015 to date, I missed out on eight (8) public holidays listed in paragraph 8, because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays.

Affirmed at _____, in the State of South Australia.

This 08 day of October, 2016.

Signature of deponent making this Affidavit

Before me: _____

Monique Jean Chettle
A Commissioner for taking
Affidavits in the Supreme
Court of South Australia.

ATTACHMENT 9

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number:

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed by [REDACTED] at the [REDACTED] located at [REDACTED] VIC [REDACTED].
2. I commenced my employment on or about November 1993.
3. My wages and employment conditions are covered by the [REDACTED] ('Enterprise Agreement').
4. I am employed as a full time Grade 2 Storeman.
5. My hours of work are 36 hours per week across 4 days each week.
6. For over 18 years until on or about August 2016, my rostered hours of work were Tuesday to Friday each week.
7. From August 2016, my current hours of work are from Wednesday to Saturday each week.
8. From 1 January 2015 to date, the following public holidays fell on a day I was not rostered to work and I was provided either an additional day off in lieu or an additional days' pay in accordance with clause 18 – Public Holidays of the Enterprise Agreement:
 - Monday, 26 January 2015 – Australia Day,
 - Monday, 9 March 2015 – Labour Day,
 - Saturday, 4 April 2015 – Easter Saturday,
 - Sunday, 5 April 2015 – Easter Sunday,
 - Monday, 6 April 2015 – Easter Monday,
 - Saturday, 25 April 2015 – ANZAC Day to the best of my recollection,
 - Monday, 8 June 2015 – Queen's Birthday,
 - Saturday, 26 December 2015 – Boxing Day,
 - Monday, 28 December 2015 – Additional Day,
 - Saturday, 26 March 2016 – Easter Saturday,
 - Sunday, 27 March 2016 – Easter Sunday,
 - Monday, 28 March 2016 – Easter Monday,
 - Monday, 13 June 2016 – Queen's Birthday,
 - Monday, 25 April 2016 – ANZAC Day,



[REDACTED]

9. My roster is not expected to change and therefore, I will very likely be provided the same benefit as described in paragraph 8 the following public holidays for the remainder of the year:
- Tuesday, 1 November 2016 – Melbourne Cup Day,
 - Monday, 26 December 2016 – Boxing Day,
 - Tuesday, 27 December 2016 – substituted day for Christmas Day falling on a Sunday,
 - Sunday, 1 January 2017,
 - Monday, 1 January 2017.
10. From 1 January 2015 to date, the following public holidays fell on a day I was rostered to work and received the benefit of a day off with pay:
- Thursday, 1 January 2015 – New Year’s Day,
 - Friday, 3 April 2015 - Good Friday,
 - Friday, 2 October 2015 – Friday before AFL Grand Final,
 - Tuesday, 3 November 2015 – Melbourne Cup Day,
 - Friday, 25 December 2015 – Christmas Day,
 - Friday, 1 January 2016 – New Year’s Day,
 - Tuesday, 26 January 2016 – Australia Day,
 - Friday, 25 March 2016 – Good Friday,
 - Friday, 30 September 2016 – Friday before AFL Grand Final,
11. Under the Enterprise Agreement I receive a benefit for all public holidays, regardless on which day the public holiday falls.

Affirmed at [redacted], in the State of Victoria.

This 6 day of October, 2016.

[redacted signature]

Signature of deponent making this Affidavit

Before me: Mauro Moretta
Mauro Moretta
Level 3 / 65 Southbank Boulevard
Southbank VIC 3006
An Australian legal practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria).

ATTACHMENT 10

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number:

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed by [REDACTED] at the [REDACTED] located at [REDACTED] VIC [REDACTED].
2. I commenced my employment on or about October 1993.
3. My wages and employment conditions are covered by the [REDACTED] ('Enterprise Agreement').
4. I am employed as a full time Grade 3 Storeman.
5. My normal hours of work are 36 hours per week across 4 days from Tuesday to Friday each week.
6. From 1 January 2015 to date, the following public holidays fell on a day I was not rostered to work and I was provided either an additional day off in lieu or an additional days' pay in accordance with clause 18 – Public Holidays of the Enterprise Agreement:
 - Monday, 26 January 2015 – Australia Day,
 - Monday, 9 March 2015 – Labour Day,
 - Saturday, 4 April 2015 – Easter Saturday,
 - Sunday, 5 April 2015 – Easter Sunday,
 - Monday, 6 April 2015 – Easter Monday,
 - Saturday, 25 April 2015 – ANZAC Day to the best of my recollection,
 - Monday, 8 June 2015 – Queen's Birthday,
 - Saturday, 26 December 2015 – Boxing Day,
 - Monday, 28 December 2015 – Additional Day,
 - Saturday, 26 March 2016 – Easter Saturday,
 - Sunday, 27 March 2016 – Easter Sunday,
 - Monday, 28 March 2016 – Easter Monday,
 - Monday, 13 June 2016 – Queen's Birthday,
 - Monday, 25 April 2016 – ANZAC Day,
7. From 1 January 2015 to date, the following public holidays fell on a day I was rostered to work and received the benefit of a day off with pay:
 - Thursday, 1 January 2015 – New Year's Day,
 - Friday, 3 April 2015 - Good Friday,
 - Friday, 2 October 2015 – Friday before AFL Grand Final,
 - Tuesday, 3 November 2015 – Melbourne Cup Day,



- Friday, 25 December 2015 – Christmas Day,
- Friday, 1 January 2016 – New Year's Day,
- Tuesday, 26 January 2016 – Australia Day,
- Friday, 25 March 2016 – Good Friday,
- Friday, 30 September 2016 – Friday before AFL Grand Final.

8. My roster is not expected to change and therefore, for the remainder of the year I will very likely be provided the same benefit as described in paragraph 8 for the following public holidays:

- Monday, 26 December 2016 – Boxing Day,
- Sunday, 1 January 2017,
- Monday, 1 January 201,

and I will very likely receive the benefit of the day off with pay for the following public holidays:

- Tuesday, 1 November 2016 – Melbourne Cup Day,
- Tuesday, 27 December 2016 – substituted day for Christmas Day falling on a Sunday,

9. Under the Enterprise Agreement I receive a benefit for all public holidays, regardless on which day the public holiday falls.

Affirmed at [redacted] [redacted], in the State of Victoria.

This 6 day of October, 2016.

[redacted]

 Signature of deponent making this Affidavit

Before me: Mauro Moretta

Mauro Moretta
 Level 3 / 65 Southbank Boulevard
 Southbank VIC 3006
 An Australian legal practitioner
 within the meaning of the Legal
 Profession Uniform Law (Victoria).

ATTACHMENT 11

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I [REDACTED], of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed at [REDACTED] situated at [REDACTED] [REDACTED] VIC [REDACTED] as a full time store manager of the Salon.
2. I have been a qualified hairdresser for approximately 40 years.
3. My wages and employment conditions are covered by the Modern Hair and Beauty Award 2010 ('Modern Award'). I am paid at level 6 under the Modern Award.
4. I have been in this position at the salon for approximately 16 years and I normally work 55 hours per week from Monday to Saturday.
5. In addition to hairdressing, my other duties include rostering employees at the salon.
6. The salon employs a second year apprentice, [REDACTED], who began her apprenticeship with the salon in January 2014 and who works five days a week from Tuesday to Saturday.
7. I am aware that Full time employees and Part time employees who regularly worked 5 days per week engaged under the Hairdressing and Beauty Services Victoria Award 2001 were entitled to either another day off, or an equivalent day's pay or an extra day added to annual leave, by agreement between the employer and employee if a public holiday fell on a day the employee was not rostered to work.
8. Where a public holiday falls on a week day which falls on a day the second year apprentice, [REDACTED], is not rostered to work, I continue to apply the same benefit described in paragraph 7. Hence, where a public holiday falls on a week day when she is not rostered to work, Ashlea Marie Roberts is provided another day off in the same week to compensate her for missing out on the public holiday.



9. I support the application made by the Shop, Distributive and Allied Employees Association that where a public holiday falls on a week day when a full time or part time employee working an average of 5 days per week is not rostered to work, the employee should be entitled to receive by mutual agreement:
- a) Another day or part-day off in lieu; or
 - b) An equivalent day or part-days' pay; or
 - c) One extra day or part-day added to his or her annual leave

Affirmed at [REDACTED] in the State of Victoria.

This 1st day of October, 2016.

[REDACTED]

Signature of deponent making this Affidavit

Before me: 

Mauro Moretta
Level 3 / 65 Southbank Boulevard
Southbank VIC 3006
An Australian legal practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria).

ATTACHMENT 12

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed by [REDACTED] as a full time employee.
2. The store I work is located at [REDACTED] VIC [REDACTED]
3. My duties are predominately sales.
4. I am engaged as a Level 1 retail employee covered by the General Retail Industry Award 2010 ('Award').
5. My hours of work are over 38 hours per week across Monday, Wednesday, Thursday, Friday and alternating between Saturday and Sunday each week.
6. I have been working such rostered hours since I commenced my employment in August 2007.
7. In the last twelve months the following public holidays that fell on a day I was not rostered to work were:
 - Tuesday, 3 November 2015 - Melbourne Cup Public Holiday,
 - Tuesday, 26 January 2016 – Australia Day,
 - Sunday, 27 March 2016 – Easter Sunday.
8. When a public holiday listed in paragraph 7 fell on a day I was not rostered to work, my employer did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.
9. In total I missed out on three (3) public holidays in the last twelve months because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays.



10. I have worked the same roster since the commencement of my employment so I do not expect my roster to change. Therefore, this year I will also miss out on the following public holidays without receiving any compensation:

- Tuesday, 1 November 2016 – Melbourne Cup Public Holiday,
- Tuesday, 27 December 2016 – substituted day for Christmas Day falling on Sunday

Affirmed at _____, in the State of Victoria.

This 3RD day of OCTOBER, 2016.

Signature of _____ making this Affidavit

Before me: _____

Mauro Moretta
Level 3 / 65 Southbank Boulevard
Southbank VIC 3006
An Australian legal practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria).

ATTACHMENT 13

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number:

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed as a full time retail employee by [REDACTED] located at [REDACTED] VIC [REDACTED].
2. My wages and employment conditions are covered by the General Retail Industry Award 2010 ('Award').
3. I am classified as a level 1 retail employee under the Award.
4. My hours of work are normally 38 hours per week across 5 days per week from Tuesday to Saturday each week.
5. The roster outlined in paragraph 4 was offered to me by my employer upon commencement of employment 15 March 2016 which I accepted.
6. Since the commencement of my employment with [REDACTED], the following public holidays fell on a day I was not rostered to work:
 - Sunday, 27 March 2016 – Easter Sunday,
 - Monday, 28 March 2016 – Easter Monday,
 - Monday, 25 April 2016 – ANZAC Day,
 - Monday, 13 June 2016 – Queen's Birthday,
7. When the public holidays listed in paragraph 6 fell on a day I was not rostered to work, my employer did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.
8. The following public holidays listed below, fell on a day I was rostered to work and I received the day off with pay:
 - Friday, 25 March 2016 – Good Friday,
 - Easter Saturday, 26 March 2016,
 - Friday, 30 September 2016 – Friday before AFL Grand Final Day.

[REDACTED]

Handwritten signature: J.P.

9. I do not expect my roster to change and is therefore very likely that for the rest of the year I will receive the benefit of the following public holidays:

- Tuesday, 1 November 2016 – Melbourne Cup Day,
- Tuesday, 27 December 2016 – substitution for Christmas Day falling on Sunday.

However, over the Christmas and New Year period 2016/2017, I will most likely miss out on the following public holidays without receiving compensation for missing out on the public holiday:

- Monday, 26 December 2016 – Boxing Day,
- Sunday, 1 January 2017 – New Year's Day
- Monday, 2 January 2017 – additional Public Holiday

10. Since my employment commenced with [REDACTED] to date, I have missed out on a total of four (4) public holidays because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays.

11. Prior to the commencement of my employment with [REDACTED] I was employed full time by [REDACTED] located at [REDACTED] VIC [REDACTED], between October 2012 and 11 March 2016.

12. When I was employed full time by [REDACTED] from October 2012 until 11 March 2016, my hours of work were normally 38 hours per week across 5 days per week from Monday to Friday. During this time, I received the benefit of every public holiday that fell on a week day of my normal roster.

Affirmed at [REDACTED], in the State of Victoria.

This 5th day of OCTOBER, 2016.

[REDACTED]

Signature of deponent making this Affidavit

Before me: David Edwards

DAVID W. EDWARDS, J.P. 10509
[REDACTED]

ATTACHMENT 14

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED] of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am currently employed by [REDACTED] as a full time store manager.
2. The store where I work is located at [REDACTED] [REDACTED] VIC [REDACTED]
3. My wages and employment conditions are covered by the General Retail Industry Award 2010 ('Award').
4. My rostered days are Tuesday to Saturday each week.
5. I have been working the same roster since I commenced my employment with Strandbags on 30th May 2016.
6. As a store manager working at [REDACTED], I receive another paid day off to compensate me for missing out on public holidays that fall on my rostered day off.
7. Prior to commencing my employment with [REDACTED], I was employed part-time by [REDACTED] at [REDACTED] located at [REDACTED] [REDACTED] VIC [REDACTED] from 1 July 2014 to 25 May 2016.
8. At [REDACTED], I was employed as a second in charge to the store manager of the store and my terms and conditions of employment was covered by the General Retail Industry Award 2010.
9. My hours of work at [REDACTED] were normally 26 hours per week from Sunday to Thursday of each week.
10. I was aware that until late 2015, my store manager at [REDACTED] received compensation as described in paragraph 6 for missing out on public holidays that fell on a day that she was not rostered to work.
11. As second in charge to the store manager, I never received the compensation described in paragraph 6 when I worked at [REDACTED].



12. From 2 October 2015 to 25 May 2016, the following public holidays that fell on a day I was not rostered to work were:

- Friday, 2 October 2015 – Friday before AFL Grand Final,
- Friday, 25 December 2015 – Christmas Day,
- Friday, 1 January 2016 – New Years' Day,
- Friday, 25 March 2016 – Good Friday,

13. When a public holiday listed in paragraph 12 fell on a day I was not rostered to work, my employer [REDACTED] did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.

14. From 2 October 2015 to 25 May 2016 whilst employed by [REDACTED], in total I missed out on four (4) public holidays because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays.

15. I support the application made by the Shop, Distributive and Allied Employees Association to have the benefit outlined in paragraph 6 included as an entitlement for all employees covered by the General Retail Industry Award 2010, so that where a public holiday falls on a week day when a full time or part time employee working an average of 5 days per week is not rostered to work, the employee should be entitled to receive by mutual agreement:

- a) Another day or part-day off in lieu; or
- b) An equivalent day or part-days' pay; or
- c) One extra day or part-day added to his or her annual leave

Affirmed at [REDACTED], in the State of Victoria.

This 6th day of October, 2016.

[REDACTED]

Signature of deponent making this Affidavit

Before me: Mauro Moretta

Mauro Moretta
Level 3 / 65 Southbank Boulevard
Southbank VIC 3006
An Australian legal practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria).

ATTACHMENT 15

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number:

Filed by: The Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED] of [REDACTED], in the State of Queensland do solemnly and sincerely affirm that:

1. I am employed by [REDACTED] as a part time employee on a Thirty Two (32) hour per week contract.
2. I am an Permanent Part Timer – retail sales working at [REDACTED] Brisbane.
3. I perform a role of sales assistant - customer service and sales to customers in the store.
4. I believe my wages and employment conditions are covered by the General Retail Industry Award 2010.
5. I earnt in my last financial year the gross earnings of \$36, 995.00.
6. My hours of work are Thirty Two (32) relating to Five (5) shifts per week working the days Sunday to Thursday.
7. I have been working such rostered hours since approximately November 2011.
8. From 3rd April 2015 to date, the following public holidays fell on a day I was not rostered to work:
 - Friday, 3rd April 2015 – Good Friday
 - Saturday, 25th April 2015 - ANZAC Day
 - Friday, 25th December 2015 – Christmas Day
 - Saturday, 26th December 2015 – Boxing Day
 - Friday, 1st January 2016 - New Years' Day
 - Friday, 25th March 2016 - Good Friday
 - Saturday, 26th March 2016 - Easter Saturday

[REDACTED]
Signature of Deponent

[REDACTED]
Signature of Witness



9. When a public holiday fell on a day I was not rostered to work, my employer did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.
10. In total I missed out on Seven (7) public holidays because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays.

[REDACTED]
Affirmed at Brisbane in the State of Queensland

This 28 day of Sept, 2016.

[REDACTED]

Signature of deponent making this Affidavit

Before me:



Signature of Witness

Bernard George Wriede
Justice of the Peace
Qualified



ATTACHMENT 16

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of South Australia do solemnly and sincerely affirm that:

1. I am currently employed as a full time store manager by [REDACTED].
2. My place of work is located at [REDACTED] SA [REDACTED].
3. I have been employed with [REDACTED] since October 2010.
4. My wages and employment conditions are covered by the General Retail Industry Award 2010 ('Award').
5. Until July 2016, my full time hours of work of 43 hours per week normally fell across 5 days each week from Tuesday to Saturday.
6. From July 2016, my roster has changed such that my full time hours of work are based on an alternating roster across the following days:
 - Monday to Friday in one week; and
 - Tuesday to Saturday in the second week.
7. From March 2015, the following public holidays fell on a day I was not rostered to work:
 - Monday, 9 March 2015 – Adelaide Cup Day,
 - Monday, 6 April 2015 – Easter Monday,
 - Monday, 8 June 2015 – Queen's Birthday,
 - Monday, 5 October 2015 – Labour Day,
 - Monday, 28 December 2015 – Proclamation Day,
 - Monday, 28 March 2016 – Easter Monday,
 - Monday, 25 April 2016 – ANZAC Day,
8. When a public holiday listed in paragraph 7 fell on a day I was not rostered to work, my employer did not give me any compensation for missing out on the public holiday, such as another paid day off or another day's pay.
9. I do not work beyond 5.30pm on Christmas Eve, 24 December or New Year's Eve, 31 December.

[REDACTED] 3 [REDACTED] 8/10/2016 1


8/10/16
Monique Jean Chettie
A Commissioner for taking
Affidavits in the Supreme
Court of South Australia.

10. I worked Easter Saturday, 4 April 2015, at normal pay and received a paid day off time for time the following Tuesday, 7 April 2015.

11. From 1 January 2015 to date, I received a day off with pay when a public holiday fell on the following days I was rostered to work:

- Thursday, 1 January 2015 – New Year's Day,
- Monday, 26 January 2015 – Australia Day,
- Friday, 3 April 2015 – Good Friday,
- Saturday, 25 April 2015 – ANZAC Day,
- Friday, 25 December 2015 – Christmas Day,
- Friday, 1 January 2016 – New Year's Day,
- Tuesday, 26 January 2016 – Australia Day,
- Monday, 14 March 2016 – Adelaide Cup Day,
- Friday, 25 March 2016 – Good Friday,
- Saturday, 26 March 2016 – Easter Saturday,
- Monday, 13 June 2016 – Queens Birthday.
- Monday, 3 October 2016 – Labour Day.

12. From 1 January 2015 to date, I missed out on seven (7) public holidays listed in paragraph 7, because they fell on a day I was not rostered to work and received no compensation for missing out on those public holidays.

Affirmed at [redacted], in the State of South Australia.

This 8th day of October, 2016.

[redacted signature]

Signature of deponent making this Affidavit

Before me: [Handwritten Signature]

Monique Jean Chettle
A Commissioner for taking
Affidavits in the Supreme
Court of South Australia.

ATTACHMENT 17

FAIR WORK COMMISSION

Fair Work Act 2009

Matter Number: AM2014/301

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed a second year apprentice by [REDACTED] located at [REDACTED] [REDACTED] VIC [REDACTED]
2. I commenced my apprenticeship in January 2015.
3. The terms and conditions of my employment are covered by the Hair & Beauty Award 2010.
4. I earn \$502.30 gross per week.
5. My hours of work are across 5 days a week from Tuesday to Saturday.
6. I have been working the same rostered days since the commencement of my employment in January 2015.
7. From Monday 26 January 2015 to date, the following public holidays fell on a week day I was not rostered to work:
 - Monday, 26 January 2015 – Australia Day,
 - Monday, 9th January 2015 – Labour Day,
 - Easter Monday, 6th April 2015,
 - Monday, 8 June 2015 – Queen's Birthday,
 - Monday, 14 March 2016 – Labour Day,
 - Easter Monday, 28 March 2016,
 - Monday, 25 April 2016 – ANZAC Day,
 - Monday, 13 June 2016 – Queen's Birthday,
8. When a public holiday listed in paragraph 7 fell on a week day I was not rostered to work, my employer gave me the next day, Tuesday, paid day off in the week to compensate me for missing out on the public holiday.





9. I strongly support the application made by the Shop, Distributive and Allied Employees Association to have the benefit outlined in paragraph 8 included as an entitlement for all employees covered by the Hair & Beauty Award 2010, so that where a public holiday falls on a week day when a full time or part time employee working an average of 5 days per week is not rostered to work, the employee should be entitled to receive by mutual agreement:
- a) Another day or part-day off in lieu; or
 - b) An equivalent day or part-days' pay; or
 - c) One extra day or part-day added to his or her annual leave

Affirmed at [REDACTED], in the State of Victoria.

This 1 day of October, 2016.

[REDACTED]

Signature of deponent making this Affidavit

Before me: _____


Mauro Moretta
Level 3 / 65 Southbank Boulevard
Southbank VIC 3006
An Australian legal practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria).

ATTACHMENT 18

FAIR WORK COMMISSION

Fair Work Act 2009

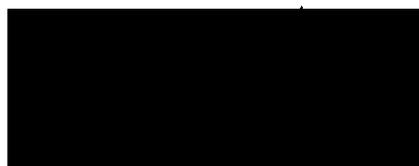
Matter Number:

Filed by: Shop, Distributive and Allied Employees Association

AFFIDAVIT

I, [REDACTED], of [REDACTED], in the State of Victoria do solemnly and sincerely affirm that:

1. I am employed by [REDACTED] at the [REDACTED] located at [REDACTED] VIC [REDACTED]
2. I commenced my employment on or about February 2001.
3. My wages and employment conditions are covered by the [REDACTED] ('Enterprise Agreement').
4. I am employed as a full time Grade 2 Storeman.
5. Since the year 2009 until 15 August 2016, my hours of work were 36 hours per week from Tuesday to Friday each week.
6. From 16 August 2016, my roster has changed such that my hours of work are 36 hours per week across 4 days each week from Wednesday to Saturday.
7. From 1 January 2015 to date, the following public holidays fell on a day I was not rostered to work and I was provided either an additional day off in lieu or an additional day's pay in accordance with clause 18 – Public Holidays of the Enterprise Agreement:
 - Monday, 26 January 2015 – Australia Day,
 - Monday, 9 March 2015 – Labour Day,
 - Monday, 6 April 2015 – Easter Monday,
 - Sunday, 5 April 2015 – Easter Sunday
 - Monday, 8 June 2015 – Queen's Birthday to the best of my recollection,
 - Saturday, 26 December 2015 – Boxing Day,
 - Monday, 28 December 2015 – Additional Day,
 - Monday, 14 March 2016 – Labour Day,
 - Saturday, 26 March 2016 – Easter Saturday,
 - Sunday, 27 March 2016 – Easter Sunday,
 - Monday, 28 March 2016 – Easter Monday,
 - Monday, 25 April 2016 – ANZAC Day,
 - Monday, 13 June 2016 – Queen's Birthday,



8. From 1 January 2015 to date, the following public holidays fell on a day I was rostered to work and received the benefit of a day off with pay:
- Thursday, 1 January 2015 – New Year's Day,
 - Friday, 3 April 2015 - Good Friday,
 - Saturday, 4 April 2015 – Easter Saturday,
 - Saturday, 25 April 2015 – ANZAC Day,
 - Friday, 2 October 2015 – Friday before AFL Grand Final,
 - Tuesday, 3 November 2015 – Melbourne Cup Day,
 - Friday, 25 December 2015 – Christmas Day,
 - Friday, 1 January 2016 – New Year's Day,
 - Tuesday, 26 January 2016 – Australia Day,
 - Friday, 25 March 2016 – Good Friday,
 - Friday, 30 September 2016 – Friday before AFL Grand Final,
9. Under the Enterprise Agreement I receive a benefit for all public holidays, regardless on which day of the week the public holiday falls.

Affirmed at _____, in the State of Victoria.

This 6 day of OCTOBER, 2016.

Signature _____ davit

Before me: _____

Mauro Moretta
Level 3 / 65 Southbank Boulevard
Southbank VIC 3006
An Australian legal practitioner
within the meaning of the Legal
Profession Uniform Law (Victoria).

ATTACHMENT 19

Awards with Provision for an entitlement when a public holiday falls on RDO or a non working day

Award Title	CLAUSE/S providing an entitlement when a PH falls on a non working day
Airline Operations-Ground Staff Award 2010	37.5
Airport Employees Award 2010	36.8
Alpine Resorts Award 2010	29.3
Ambulance and Patient Transport Industry Award 2010	31.2
Amusement, Events and Recreation Award 2010	27.2
Animal Care and Veterinary Services Award 2010	29.2
Broadcasting and Recorded Entertainment Award 2010	26.2
Building and Construction General On-site Award 2010	33.1
Cement and Lime Award 2010	20.12
Children's Services Award 2010	27.3
Corrections and Detention (Private Sector) Award 2010	27.2
Cotton Ginning Award 2010	22
Dry Cleaning and Laundry Industry Award 2010	21.2
Educational Services (Teachers) Award 2010	Schedule B.2.5
Electrical, Electronic and Communications Contracting Award 2010	24.8
Electrical Power Industry Award 2010	30.2
Fire Fighting Industry Award 2010	27.2
Food, Beverage and Tobacco Manufacturing Award 2010	37.3
Gardening and Landscaping Services Award 2010	21.3
Graphic Arts, Printing and Publishing Award 2010	41.6
Hospitality Industry (General) Award 2010	29.1
Joinery and Building Trades Award 2010	28.2
Labour Market Assistance Industry Award 2010	21.3
Legal Services Award 2010	31.5
Live Performance Award 2010	22.2
Local Government Industry Award 2010	28.5
Manufacturing and Associated Industries and Occupations Award 2010	44.3
Nurses Award 2010	32.3
Pest Control Industry Award 2010	20.6
Plumbing and Fire Sprinklers Award 2010	29.7
Premixed Concrete Award 2010	20.12
Registered and Licensed Clubs Award 2010	34.3
Restaurant Industry Award 2010	38.2
Road Transport and Distribution Award 2010	23.6
Seafood Processing Award 2010	30.3
Security Services Industry Award 2010	21.9
Silviculture Award 2010	24.3
Sporting Organisations Award 2010	Schedule E.1
Stevedoring Industry Award 2010	25.4
Storage Services and Wholesale Award 2010	29.3
Textile, Clothing, Footwear and Associated Industries Award 2010	43.5
Timber Industry Award 2010	36.3
Vehicle Manufacturing, Repair, Services and Retail Award	32.3
Waste Management Award 2010	36.2

Awards with Provision for an entitlement when a public holiday falls on RDO or a non working day

Award Title	CLAUSE/S providing an entitlement when a PH falls on a non working day
Water Industry Award 2010	31.4
Wine Industry Award 2010	34.3

ATTACHMENT 20

38.5 Additional Holidays

Where in a State, Territory or locality, public holidays are declared or prescribed on days other than those set out above, those days shall constitute additional holidays for the purpose of this award.

38.6 Substitute days by agreement

- 38.6.1** An employer and their employees may agree to substitute another day for any prescribed in this clause. For this purpose, the consent of the majority of affected employees shall constitute agreement.
- 38.6.2** An agreement pursuant to 38.6.1 shall be recorded in writing and be available to every affected employee.
- 38.6.3** The union which is party to this award shall be informed of an agreement, and may, within seven days, refuse to accept the agreement. The union will not unreasonably refuse to accept the agreement.

38.7 Holiday on a rostered day off

Provided that if a holiday falls on an employee's rostered day off a full time employee, or a part time employee who works five days per week (or six days if they have so elected), shall be entitled to receive by mutual agreement:

- 38.7.1** Another day off in lieu; or
- 38.7.2** An equivalent day's pay; or
- 38.7.3** One extra day added to his or her annual leave.

The days on which the employee is not rostered to work shall be deemed to be rostered days off.

38.8 Absence before/after a holiday

An employee who without reasonable excuse fails to attend work on the working day before and/or after a holiday shall not be entitled to be paid for such holiday.

38.9 Time off in lieu of payment for the penalty rate

- 38.9.1** Time off in lieu payment of the penalty rate prescribed for work on a public holiday pursuant to this clause may be provided if an employee so elects and it is agreed by the employer.
- 38.9.2** Such time off in lieu must be taken at a mutually convenient time and within four weeks of the public holiday or, where agreed between the employee and the employer, may be accumulated and taken as part of annual leave.
- 38.9.3** Time off in lieu must equate to the penalty component of the time worked on the holiday.

ATTACHMENT 21

37.4.2 Time off instead must be taken at a time mutually agreed between the employer and the employee and within four weeks of the public holiday. Alternatively by agreement between the employer and the employee the time off instead may be accumulated and taken as part of annual leave.

37.4.3 Time off instead must equate to the penalty rate (i.e. if the employee works three hours on a public holiday and the additional penalty rate is time and a half, and the employee elects to take time off instead of payment, the time off would equal 4.5 hours).

37.5 Holiday falling on a rostered day off

37.5.1 Where a holiday prescribed in 37.1 falls on a rostered day off of either a full-time employee or a part-time employee who regularly works five days each week, that employee is entitled by mutual agreement between the employer and the employee to either:

37.5.1(a) another day off instead; or

37.5.1(b) an equivalent day's pay; or

37.5.1(c) one extra day, added to his or her annual leave.

37.6 Absence before or after a holiday

An employee who does not attend work on the working day before and/or after a public holiday without reasonable excuse will not be paid for the holiday.

ATTACHMENT 22

NATIONAL FAST FOOD RETAIL AWARD 2000

- 27.9.3** If an employee is rostered to work on the substituted day and not the actual public holiday, the employee shall receive the Public Holiday benefits on the substituted day.

27.10 Additional Christmas holiday loading

In the case of Christmas Day where substitution occurs, work on the 25th December will attract an additional loading of half a normal day's wage for a full day's work in addition to the Saturday/Sunday rate and the employee will also be entitled to the benefits of the substituted public holiday.

- 27.11** A full-time employee, or a part-time employee working an average of five days per week, whose non-working day falls on a holiday, shall be paid by mutual agreement either:

27.11.1 payment of an additional day's wages;

27.11.2 addition of one day to the employee's annual holidays; or

27.11.3 another day may be allowed off with pay to the employee within 28 days after the holiday falls, or during the week prior to the holiday.

27.11.4 A part-time employee working an average of five days a week shall be entitled to the provisions of 27.11.1, 27.11.2 and 27.11.3 above where the employee works an alternating roster and the public holiday falls on a day on which the employee works in any week of their roster cycle.

27.11.5 For the purpose of this paragraph for full-time employees, **day** shall mean eight hours for an employee working nineteen days in a four week cycle. In respect of part-time employees **day** shall mean the average number of hours rostered per day by the employee prior to the public holiday in the four week cycle.

27.12 An employee who fails to attend for a rostered shift on the last working day before or the first working day after any public holiday shall forfeit wages for the day of the absence as well as for the public holiday. Where the company is satisfied that the employee's absence was caused through illness or other reason, wages shall not be forfeited for the holiday. Provided that an employee absent either before or after a group of holidays, shall forfeit wages for only one public holiday as well as the period of absence.

27.13 All full-time and part-time employees working on a public holiday shall be paid at the rate of 250% with a minimum payment as for three hours' work.

27.14 All casual employees working on a public holiday shall be paid at the rate of 250% plus the per cent casual loading specified in 12.1 with a minimum payment as for three hours' work.

ATTACHMENT 23

SHOP, DISTRIBUTIVE AND ALLIED EMPLOYEES ASSOCIATION
- VICTORIAN PHARMACY ASSISTANTS AWARD 2000

32. PUBLIC HOLIDAYS

32.1 Employees (other than casuals) shall be granted the following holidays without deduction of pay:

32.1.1 New Year's Day, Australia Day, Labour Day, Good Friday, Easter Saturday, Easter Monday, Anzac Day, Queen's Birthday, Christmas Day and Boxing Day.

32.1.2 Provided that if an employee elects to work on any of the above holidays he or she shall be paid at the rate of double time in addition to his or her ordinary weekly wage with a minimum payment as for two hours .

32.2 Substitution

32.2.1 When Christmas Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 27 December.

32.2.2 When Boxing Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on 28 December.

32.2.3 When New Year's Day or Australia Day is a Saturday or a Sunday, a holiday in lieu thereof shall be observed on the next Monday.

32.2.4 In the case of Christmas Day where substitution occurs as in 32.2.1 above, an employee required to work on 25 December will attract an additional loading of half a day's wages at the ordinary rate for a full day's work in addition to the Saturday/Sunday rate and the employee will also be entitled to the benefit of the substitute public holiday.

32.3 Melbourne Cup Day

32.3.1 Within the municipal districts mentioned in the Fifth Schedule the *Public Holidays Act 1993* as varied from time to time and within the boundaries of those districts as varied from time to time pursuant to the provisions of the *Local Government Act 1989*, employees shall be given the day off without deduction of pay on Melbourne Cup Day.

32.3.2 Outside the area specified above any other day may be substituted by mutual agreement between the parties.

32.4 Holiday on rostered day off

Provided that if a holiday falls on an employee's rostered day off a full-time employee, or a part-time employee who works five days per week (or six days if they have so elected), shall be entitled to receive by mutual agreement, either:

32.4.1 Another day off in lieu; or

32.4.2 An equivalent day's pay; or

32.4.3 One extra day added to his/her annual leave.

For the purposes of this subclause, the days on which the employee is not rostered to work shall be deemed to be rostered days off.

32.5 An employee who without reasonable excuse fails to attend for work on the working day before and/or after a holiday shall not be entitled to be paid for such holiday.

[32.6 substituted by PR987878 from 02Dec09]

32.6 Where in a State, Territory or locality, public holidays are declared or prescribed on days other than those set out above, those days shall constitute additional holidays for the purpose of this award.

32.7 Time off in lieu of payment of the penalty rate prescribed for work on a public holiday pursuant to this clause may be provided if an employee so elects and it is agreed by the employer.

32.8 Such time off in lieu must be taken at a mutually convenient time and within four weeks of the public holiday or, where agreed between the employee and the employer, may be accumulated and taken as part of annual leave.

32.9 Time off in lieu must equate to the penalty rate i.e. if the employee works three hours on a public holiday and the additional penalty rate is time and a half and the employee elects to take time off in lieu of payment the time off would equal 4.5 hours.

ATTACHMENT 24

- (iii) If an employee is rostered to work on the substituted and not the actual public holiday, (for example, the employee is on a weekly roster of Monday through to Friday and the actual holiday is a Sunday and the substituted day is Monday), then the employee shall receive the benefits of the substituted day.

Christmas Day Loading

- (iv) In the case of Christmas Day where substitution occurs, work on the 25th December will attract an additional loading of half a normal day's wage for a full days work in addition to the relevant Saturday or Sunday rate and the employee will also be entitled to the benefit of the substituted public holiday.

Rostered day off or accumulated time off falling on a holiday

- (g) In the case of an employee whose ordinary hours of work are arranged in such a manner as to entitle the employee to a rostered day off, the weekday to be taken off shall not coincide with a holiday fixed in accordance with this clause. Provided that, in the event that a holiday is prescribed after a roster is arranged the employer shall allow the employee to take an alternative weekday off in lieu of the holiday.

Full-time employees working non-standard hours

- (h) Where a full time employee who does not work a standard five day Monday to Friday, (for example, whose hours may equate to 7.6 hours a day Tuesday, Wednesday, Thursday Saturday and Sunday) and a holiday (or substituted day as the case may be) falls on a day the employee would not be working the employee shall be paid by mutual agreement one of the following:
 - (i) payment of an additional days wages,
 - (ii) addition of one day to the employee's annual holiday (without holiday loading),
 - (iii) another day allowed off with pay to the employee within twenty eight days after the holiday falls, or during the week prior to the holiday.

Part-time Workers

- (i) Where the normal roster of a part-time worker includes a day that is a holiday, the worker shall receive the normal pay he/she would have received on that day and enjoy the holiday or receive the appropriate public holiday rate for working whatever hours he/she worked during it.
 - (i) For part-time workers whose normal roster includes a Saturday or Sunday that would be a prescribed holiday but for the substitution of an alternative day, the following shall apply:
 - (1) The employee shall be granted leave with pay on the "actual day" without any substitution; or

- (2) The employee works on the “actual day” at normal Saturday or Sunday rates (if the Saturday or Sunday is Christmas Day the relevant loading will apply as prescribed in paragraph (f) (iv) herein) and is allowed to take another day with pay, which may or may not be the prescribed substitute day, as a holiday; or
 - (3) The employee works on the “actual day” at normal Saturday or Sunday rates (if the Saturday or Sunday is Christmas Day the relevant loading will apply as prescribed in paragraph (f) (iv) herein) and receives, in addition, payment at ordinary time rates for an additional day of equal length (with no substitution of an alternative day).
 - (4) If any of these benefits applies, the employee who works on the prescribed substitute day should do so at ordinary time rates.
- (ii) Where a part-time employee works an alternating shift roster (*for example, an employee regularly works Monday to Friday one week and Tuesday to Saturday the next week*) and a public holiday (or substitute day as the case may be) falls on a day that the employee works in any week of their roster cycle, (*using the above example, the holiday falls on the Monday of the week that the employee is rostered off*), the employee shall be entitled to the provisions of (h)(i), (ii), or (iii).
 - (iii) A part-timer who works an average of five days per week, but whose roster is not a regular Monday to Friday roster, will not be disadvantaged by the fact that a prescribed holiday falls upon a day when the employee will not be working. The appropriate compensation is:
 - (1) An alternative “day off”; or
 - (2) An addition of one day to annual leave (without holiday loading); or
 - (3) An additional days wages.

For the purpose of this sub-clause “day off” shall mean the average number of hours rostered per day by the employee in the four week cycle prior to the public holiday.

- (j) An employee who works a standard Monday to Friday roster shall not receive compensation for Easter Saturday or Anzac Day when it occurs on a weekend.
- (k) Where an employee is absent from their employment on the working day before or the working day after any of the holidays referred to within sub-clauses (a) or (b) hereof without reasonable cause (proof whereof shall lie with the employee) or consent of the employer, the employee shall not be entitled to payment of the holiday which occurs on the day immediately following or immediately preceding such absence.

26A - CHRISTMAS PROVISION

[26A inserted by L9935; deleted by P1579 ppc 04Jun97]

ATTACHMENT 25

MANNEQUINS AND MODELS AWARD 2000

- 26.6 Where a store opens for trade on a public holiday, employees who would normally be rostered to work may request to work the day or part thereof and shall be paid the appropriate penalty for time so worked. Provided that when an employee chooses not to work they shall be paid in accordance with 26.5 above.
- 26.7 Where a store opens for trade on an actual public holiday which has had the substitution provision of subclause 26.2 applied, the following shall apply:
- 26.7.1 If an employee is ordinarily rostered to work on the actual public holiday and the substituted day, the employee shall elect which day is to be their public holiday and receive the standard public holiday benefits on that day. The other day shall then be a normal rostered day. (See Christmas Holiday loading.)
- 26.7.2 If an employee is rostered to work on the actual public holiday and not the substituted day, the employee shall receive the standard public holiday benefits on the actual day.
- 26.7.3 If an employee is rostered to work on the substituted day and not the actual public holiday, the employee shall receive the public holiday benefits on the substituted day.

26.8 Additional Christmas holiday loading

In the case of Christmas Day where substitution occurs, work on 25 December will attract an additional loading of half a normal day's wage for a full day's work in addition to the Saturday/Sunday rate and the employee will also be entitled to the benefits of the substituted public holiday.

- 26.9.1 A full-time employee, or part time employee working an average of five days per week, whose non-working day falls on a holiday, shall be paid by mutual agreement either:
- 26.9.1(a) payment of an additional day's wages;
 - 26.9.1(b) addition of one day to the employee's annual holidays; or
 - 26.9.1(c) another day may be allowed off with pay to the employee within 28 days after the holiday falls, or during the week prior to the holiday.
- 26.9.2 A part-time employee shall be entitled to the provisions of 26.9.1(a), 26.9.1(b) and 26.9.1(c) above where the employee works an alternating roster and the public holiday falls on a day on which the employee works in any week of their roster cycle.
- 26.9.3 For the purpose of this paragraph for full-time employees, "day" shall mean eight hours for an employee working 19 days in a four week cycle. In respect of part-time employees "day" shall mean the average number of hours rostered per day by the employee prior to the public holiday in the four week cycle.