



DIRECTIONS

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Penalty rates (AM2014/305)

JUSTICE ROSS, PRESIDENT
VICE PRESIDENT CATANZARITI
DEPUTY PRESIDENT ASBURY
COMMISSIONER HAMPTON
COMMISSIONER LEE

SYDNEY, 29 APRIL 2016

These directions deal with the review of penalty rates in the following awards in the hospitality and retail sectors:

Award title	Award code
<i>Hospitality group</i>	
<i>Hospitality Industry (General) Award 2010</i>	<u>MA000009</u>
<i>Registered and Licensed Clubs Award 2010</i>	<u>MA000058</u>
<i>Restaurant Industry Award 2010</i>	<u>MA000119</u>
<i>Retail group</i>	
<i>Fast Food Industry Award 2010</i>	<u>MA000003</u>
<i>General Retail Industry Award 2010</i>	<u>MA000004</u>
<i>Hair and Beauty Industry Award 2010</i>	<u>MA000005</u>
<i>Pharmacy Industry Award 2010</i>	<u>MA000012</u>

The Commission directs as follows:

1. On or before **4.00pm on Monday 2 May 2016**, the employer parties are to file (either as joint submissions or as part of the one document):
 - a. written submissions in response to the issue of Sunday work which includes President Ross' initial proposition and subsequent discussion that employees have a right to refuse to work on a Sunday on a similar basis to that articulated in section 114 of the *Fair Work Act 2009* (Cth) (see Transcript at paragraphs 26991–26999 and 27564–27568);
 - b. if they wish, further written submissions in relation to the contributions received by the Fair Work Commission from interested parties.

2. On or before **4.00pm on Monday 2 May 2016**:
 - a. Australian Business Industrial and the NSW Business Chamber are to file the table reflecting the analysis of retail award provisions regarding Public Holidays as was proposed on transcript of the 14th April 2016; and
 - b. the Chamber of Commerce and Industry of Western Australia (CCIWA) are to provide a written response to the submission of the Shop Distributive and Allied Employees' Association that appendices A and B of the CCIWA's submissions dated 8 February 2016 not be considered by the Commission.

3. On or before **4.00pm on Monday 16 May 2016**, the unions parties are to file (either as joint submissions or as part of the one document):
 - a. written submissions in response to the issue of Sunday work which includes President Ross' initial proposition and subsequent discussion that employees have a right to refuse to work on a Sunday on a similar basis to that articulated in section 114 of the *Fair Work Act 2009* (Cth) and in response to the submissions of the employer parties filed in accordance with direction 1(a) above; and
 - b. written submissions in response to the employer parties' written submissions regarding the contributions received by the Fair Work Commission from interested parties (filed in accordance with direction 1(b) above).

4. On or before **4.00pm on Friday 20 May 2016** the union parties are to provide a written response in reply to the Australian Business Industrial and the NSW Business Chamber table of Public Holidays provided as per direction 2(a) above.

5. On or before **4.00pm on Monday 23 May 2016** the employer parties are to provide a written response to the unions' submissions provided as per direction 3(a) above.

6. On or before **4.00pm on Friday 3 June 2016** employers and unions will provide an agreed set of documents in relation to the Award Modernisation process for each award which includes:
 - a.
 - i. the award modernisation requests;
 - ii. pre exposure draft submissions;
 - iii. the Exposure Draft;

- iv. submissions made during the proceedings (including any materials that were attached to the submissions);
 - v. any extracts of transcript in relation to the modernisation of the particular award;
 - vi. the AIRC decision;
 - vii. submissions made regarding transitional provisions and any AIRC decision;
 - viii. applications to vary the modern award made prior to 1 January 2010 and submissions; and
 - ix. the AIRC/FWC decision; and
- b. further written submissions emphasising any of the documents or sections from the documents from the award modernisation process which may or may not be joint submissions between the union and employers parties.
7. Leave is granted to apply generally on 48 hours' notice.
8. All material should be sent to amod@fwc.gov.au.

PRESIDENT

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