

In the Fair Work Commission

Matter No. AM2014-305: Penalty Rates

Victorian Government Submission

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Executive Summary

1. The Victorian Government is committed to working with employers and employees alike to achieve fair, sustainable wages and increased productivity for the state's economy. It is important to address growing inequality, while at the same time supporting employment and economic growth.
2. This Victorian Government submission assesses the potential impacts of reducing penalty rates on low wage workers, employment levels, and the state and national economies, for the assistance of the Fair Work Commission.
3. Penalty rates are a longstanding feature of the Fair Work safety net under the national industrial relations system. Reducing penalty rates will erode those protections, with a particularly negative impact on the lowest paid Victorian workers - one in six Victorian workers rely on award wages. Many of those workers rely on penalty rates to meet basic household expenses and necessities.
4. A reduction in penalty rates is likely to have adverse and disproportionate impacts on award-reliant, low paid classes of workers, including young workers and female workers. Moreover, economic modelling suggests that reducing penalty rates may have a disproportionately negative impact on rural and regional economies.
5. Penalty rates remain an important way to compensate workers for the social and health impacts of working unsociable hours during weekends, public holidays and on shift work.
6. The majority of Australians (around 70 per cent) continue to work a 'standard' Monday to Friday week.¹ Those working unsocial hours, such as evenings or weekends, are still in the minority.² However, this still accounts for a significant number of Victorians who would be affected by changes to penalty rates – around 1 in 6 Victorians work on weekends or are shift workers.
7. In considering whether to reduce penalty rates in nominated awards as sought by various employer group submissions, the impact of penalty rates on the business costs of individual employers needs to be weighed against the positive contribution those payments make in meeting the cost of living for low paid workers, and the subsequent flow-on effects this has to the Victorian economy. Penalty rates are only one part of the costs faced by business, and these can be a smaller impost on businesses than other expenses, such as commercial rent, council rates, utility bills, and taxes.

¹ According to ABS data, in November 2012, 66 per cent of single jobholders worked five days per week and 70 per cent worked on weekdays only: ABS *Working Time Arrangements, Australia*, November 2012 (Cat No. 6342.0).

² Skinner, N and Pocock, B (2014) *The Persistent Challenge: Living, Working and Caring in Australia in 2014*, The Australian Work and Life Index 2014, Centre for Work and Life, University of South Australia, p.11.

8. While reducing penalty rates may lead to some businesses extending opening hours (and therefore in some cases, putting on additional employees), there is no convincing evidence it will lead to significant jobs growth. Costs savings made by employers will not necessarily lead to an increase in jobs overall, for example, where an employer already has sufficient staff to meet business demand. Further, a reduction in penalty rates (and therefore total wages) may reduce the capacity of some workers to take up work at unsociable hours, for example, taking into account the costs of transport if public transport is unavailable, or where other supports such as child care may be more costly or not available at all.
9. Victoria's experience with expanded trading hours demonstrates that penalty rates do not inhibit the ability of businesses to operate outside traditional hours. Despite penalty rates being a fixture of the industrial relations system in the retail and hospitality sectors for more than 50 years, available data demonstrates that there has been strong and sustained growth in these sectors over the past several decades, and revenue share has increased in comparison to wage costs.
10. Employment growth in Victoria has been strong and sustained over the past year, with Victoria leading the nation in job creation. The Victorian Government has a strong focus on employment growth as set out in its *Back to Work Plan*. The Victorian Government expects that the retail, hospitality and accommodation sectors in Victoria will continue to grow, with increases in profits expected to outstrip wages growth over the next several years. Whilst this growth may be uneven, factors such as global financial conditions have a more significant impact on a business than changes to penalty rates.
11. The Victorian Government submits that the Victorian labour market is likely to remain highly competitive in the near-term. It is important, therefore, that minimum wages, including penalty rates, be maintained at a level that ensures wage inequality is not exacerbated and that Victorians have access to meaningful jobs that are safe, secure and remunerated fairly.
12. The current Fair Work laws provide sufficient scope for businesses, in cooperation with their employees, to introduce flexibility.
13. It is debatable whether reducing penalty rates, in isolation, will improve workplace productivity.
14. The Victorian Government is strongly opposed to treating retail, hospitality and accommodation workers less favourably than workers in other industries, creating an unfair, two-tier system of entitlements and an under-class of Australian workers. There is no policy rationale, in our view, for disadvantaging one group of workers in respect of penalty rates. Whilst the past few decades have seen marked changes to patterns of work, leisure and consumption within Australia, the Victorian Government submits that these changes do not, of themselves, justify a reduction in penalty rates for low-paid workers in specific industries.

Section 1 Introduction

Statement of Victorian Government policy and principles

- 1.1 The Victorian Government welcomes the opportunity to make a submission to the Fair Work Commission's review of penalty rate arrangements in the retail, hospitality and accommodation sectors, as part of the review of modern awards.
- 1.2 The submission analyses how changes to penalty rates may affect some businesses, and some employees (including those not currently in employment). Whilst reducing penalty rates may benefit certain groups, this will come at a cost to many current employees who face a significant reduction in income.
- 1.3 The Victorian Government is committed to the concept of social inclusion through workplace participation and engagement in our economy. To this end, the Victorian Government has implemented a number of programs to encourage employment and to assist job seekers in finding meaningful opportunities to participate in paid employment.
- 1.4 The Victorian Government strongly supports a fair and comprehensive safety net of minimum wages and conditions, penalty rates, and cooperative work practices that improve productivity and encourage innovation.
- 1.5 In 2014, a new modern award objective reaffirmed Australia's longstanding commitment to penalty rates in the form of extra remuneration for people working unsocial, irregular or unpredictable hours that could reasonably be expected to affect their work/life balance and enjoyment of life outside of work.³
- 1.6 This is codified in section 139 of the *Fair Work Act 2009* (the FW Act), which sets out the terms that may be included in modern awards to ensure that they provide a "fair and relevant minimum safety net of terms and conditions."⁴ These include the need to provide additional remuneration for:
 - employees working overtime;
 - employees working unsocial, irregular or unpredictable hours;
 - employees working on weekends or public holidays; and
 - employees working shifts.
- 1.7 The Victorian Government notes that modern awards are a significant element of the safety net of minimum employment standards. Penalty rate arrangements are also set through other mechanisms, not just through the award system, and employers have the ability to address penalty rates through workplace bargaining (subject of course to the Better Off Overall Test).

³ Explanatory Memorandum, *Fair Work Amendment Bill 2013*, p.1.

⁴ *Fair Work Act 2009 (Cth)*, s139

1.8 The Victorian Government submits that:

- reducing penalty rates will have an adverse financial impact on employees, by decreasing take home pay for existing employees;
- in turn, this will contribute to the growing gap between award-reliant workers and those on incomes derived from enterprise bargaining and other above-award arrangements and impact on relative living standards;
- reducing penalty rates will disproportionately affect vulnerable categories of workers – those already on low pay, with low bargaining power, in precarious forms of employment;
- the Victorian Government is deeply concerned about gender equity and fears that reductions in penalty rates for these sectors will disproportionately affect female workers and could exacerbate gender inequality;
- the current Fair Work legislative framework provides sufficient scope for businesses, in cooperation with their employees, to address matters of flexibility;
- there is no evidence that reducing penalty rates will improve workplace productivity;
- there are more direct and effective mechanisms to target employment growth, for example assistance to those looking for work, and to businesses wanting to increase their workforces. Cutting penalty rates is not the only or the best option for addressing these matters. When looking to increase employment or productivity, a focus on penalty rates is flawed, and would target some of our most vulnerable workers.

Section 2 Current economic conditions, outlook, productivity performance and earnings inequality

Summary

- 2.1. This section presents information on the performance and competitiveness of the national and Victorian economies, on labour market and business conditions and prospects, productivity performance and impacts on female workers.
- 2.2. The Victorian Government submits that, on balance, with excess capacity in the labour market, the Victorian labour market is likely to remain highly competitive in the near-term. It is important, therefore, that take-home pay, including penalty rates, be sustained at a level which ensures that wage inequality is not exacerbated by these conditions, and that Victorians have access to meaningful jobs that are safe, secure and remunerated fairly. Female workers can be particularly affected by changes to penalty rates.
- 2.3. Employment growth in Victoria has been strong and sustained over the past year, with Victoria leading the nation in job creation with 26,100 jobs created in October 2015 alone.⁵ Victoria's employment growth has been a major focus of the Victorian Government's Back to Work plan. This integrated set of policies is supporting expansion in high-growth industries, improving access of local business to overseas markets; and supporting young people, the long-term unemployed, and retrenched workers with more job opportunities through tax relief to businesses. The Premier's Jobs and Investment Panel has been established to draw on the expertise and insight of economic and industry leaders to provide strategic advice.
- 2.4. The Victorian economy grew by 2.5 per cent in 2014-15, an improvement on the 1.0 per cent growth rate recorded in 2013-14. Economic conditions are expected to remain solid, with Budget Update forecasts indicating a projected rate of 2.75 per cent growth from 2016-17.
- 2.5. Victorian employment increased by 2.7 per cent in year average terms in 2015 compared with the previous year, the highest of all states. Despite this, strong labour force growth due to high population growth resulted in only a modest reduction in the unemployment rate, from an average of 6.6 per cent in 2014 to an average of 6.1 per cent in 2015.
- 2.6. The economic outlook is generally positive and the Victorian Government submits that a reduction in penalty rates is not necessary to the ongoing growth of the Victorian and national economy, and is not needed in order to stimulate employment growth.

⁵ Victoria State Government Media Release, 12 November 2015, *Victoria Leads the Nation in Jobs Growth*. Accessed from: <https://www.premier.vic.gov.au/wp-content/uploads/2015/11/151112-Victoria-Leads-The-Nation-In-Jobs-Growth.pdf>

The Australian economy

- 2.7. The Australian economy continues to transition from resources investment-led growth towards broader-based drivers of activity. This is occurring at a time when the economy has generally been growing below its trend rate and the unemployment rate has been elevated.
- 2.8. Below-trend growth has led to an increase in the level of spare capacity in the labour market. Coupled with the conclusion of the investment phase of the mining boom, this has contributed to the pace of wages growth moderating, which the Commonwealth Government forecasts to stabilise at around its 2014-15 level of 2.5 per cent in 2015-16.
- 2.9. The Reserve Bank of Australia (RBA) has identified a range of related factors that explain much of the decline in wages growth in recent years. These include: (i) an increase in spare capacity in the labour market resulting from below average growth in labour demand; (ii) a moderation in both the inflation rate and expectations for consumer price inflation; (iii) increased pressure on firms to contain wage costs driven by declining terms of trade and falls in mining investment; and (iv) increased flexibility of wages, increasing the scope for them to be adjusted in response to changes in demand for goods and services.
- 2.10. Given the decline in wages growth, the Victorian Government opposes further cuts to wages for low-paid workers in the form of a reduction in their penalty rates, without specific data supporting this.

The Victorian economy

- 2.11. The transitioning of the Australian economy and recent fall in the dollar have benefitted the Victorian economy, which grew by 2.5 per cent in 2014-15, up from 1.0 per cent in the previous year. The economic projections for the Victorian economy prepared for the *Victorian 2015-16 Budget Update* are presented in Table 1 below.

Table 1: Victorian 2015-16 Budget Update economic forecasts

	2014-15 Actual	2015-16 Forecast	2016-17 Forecast	2017-18 Projection	2018-19 Projection
Real Gross State Product	2.5	2.50	2.75	2.75	2.75
Employment	2.1	1.50	1.50	1.50	1.50
Unemployment rate	6.4	6.25	6.00	5.75	5.50
Consumer price index	1.4	2.25	2.50	2.50	2.50
Wage price index	2.7	3.00	3.25	3.50	3.50
Population	*1.8	1.80	1.80	1.80	1.80

Source: Department of Treasury and Finance, *2015-16 Budget Update*

*forecast

- 2.12. Victorian household consumption growth moderated in 2014-15, mainly due to soft retail trade turnover underpinned by soft wages growth. However, household consumption is showing tentative signs of improvement, with growth of 0.9 per cent

recorded in the first quarter of 2015-16. Partial indicators for the December quarter – such as retail trade and employment growth – have been robust, and are expected to support stronger consumption growth in the near-term.

- 2.13. Victoria's service exports increased by 13.2 per cent during 2014-15. The outlook remains favourable with the lower exchange rate supporting the competitiveness of Victoria's service industries.
- 2.14. Population growth is expected to remain strong, continuing a trend of growth above the long term average. Victoria continues to receive a positive net inflow of interstate migration as well as an above population share of net overseas migration.
- 2.15. These forecasts tend to indicate that the Victorian economy remains competitive at the current level of wages growth, which undermines arguments that a cut in penalty rates is needed in order to stimulate further economic growth.

Productivity performance

- 2.16. Growth in productivity is a key factor in improving wealth and living standards in the community. Productivity growth has been weak in recent years and the Victorian Government recognises the need to improve this measure by focusing on strategies that encourage growth and investment, create the right environment for jobs and position the Victorian economy for sustained growth.⁶
- 2.17. The Victorian Government notes that while Australia's recent productivity performance has been flat, preliminary data in the most recent (incomplete) cycle ending 2014-15 shows that improvement in both multifactor and labour productivity growth has been pronounced in industries that are award-reliant, such as retail trade.

Labour market conditions and prospects

- 2.18. The national unemployment rate averaged 6.1 per cent in 2015, falling from 6.4 per cent in January 2015 to 5.8 per cent by December 2015. In seasonally adjusted terms, year average employment increased by 216 800 persons (1.9 per cent) in 2015 compared with the previous year.
- 2.19. Employment growth is expected to remain solid as the economy rebalances. This is being supported by strong growth in labour-intensive sectors such as Health Care and Social Assistance, Professional, Scientific and Technical Services, and Accommodation and Food Services. The Commonwealth Government has forecast national employment to grow by 2.00 per cent in 2015-16 and 1.75 per cent in 2016-17. The unemployment rate is forecast to remain around its current level of 6 per cent in the June quarters of both 2016 and 2017.⁷

⁶ Victorian Government (2014) *2014-15 Budget Update, December 2014*. Accessed from: <http://www.dtf.vic.gov.au/State-Budget/2014-15-State-Budget/Budget-Update>.

⁷ Commonwealth *Mid-Year Economic and Fiscal Outlook 2015-16*, December 2015.

- 2.20. The Victorian unemployment rate was 5.9 per cent in December 2015, 0.5 percentage points lower than the same time the previous year. Victoria's unemployment rate averaged 6.1 per cent in 2015, in line with the national average, and down from 6.6 per cent in 2014. The youth unemployment rate, despite falling from a recent peak of 15.1 per cent to be 14.5 per cent in December 2015 (12 month average, original data), remains above the national average (13.1 per cent).
- 2.21. In seasonally adjusted terms, year average employment in Victoria increased by 76 800 persons (2.7 per cent) in 2015 compared with the previous year, the strongest result of all states in percentage terms.
- 2.22. Leading indicators of employment such as surveyed hiring intentions and measures of job advertisements continued to improve at a solid pace throughout 2015. In seasonally adjusted terms, the Victorian Internet Vacancy Index (IVI), produced by the Commonwealth Department of Employment, increased by 16.0 per cent over the year to December 2015 (although it remains 40.9 per cent below the April 2008 peak in vacancies).⁸
- 2.23. The ANZ Job Advertisements series identified that nationally, the number of newspaper and online job advertisements increased by 10.0 per cent over the year to December 2015 in seasonally adjusted terms.
- 2.24. This points to a continuation of solid near-term employment growth, supported by the Victorian Government's Back to Work plan. Accordingly, Victorian employment is expected to grow at around its long run average of 1.50 per cent in both 2015-16 and 2016-17. The unemployment rate is expected to gradually decline as economic growth returns to trend.
- 2.25. Nothing in these figures suggests that a reduction in penalty rates is key to improving Victoria's unemployment rate. Other factors, such as the Victorian Government's initiatives to stimulate employment growth and reduce unemployment, can have a more significant impact than cuts to the take-home pay of low-paid workers.
- 2.26. The Victorian Government's *Back to Work* plan supports employment growth. This integrated set of policies is driving expansion in high-growth industries, improving access of local business to overseas markets; and supporting young people, the long-term unemployed, and retrenched workers with more job opportunities through tax relief to businesses. The Premier's Jobs and Investment Panel has been established to draw on the expertise and insight of economic and industry leaders to provide strategic advice.

Earnings inequality and gender pay inequity

- 2.27. In 2014, of the 9,898,900 employees in Australia, there were 1,860,700 employees who had their pay set by awards only, which is 18.8 per cent or nearly one in six of all employees. Of these, 1,071,300 were women, which represents 57.58 per cent of

⁸ Department of Employment (December 2015) *Vacancy Report*. Accessed from: <http://lmip.gov.au/default.aspx?LMIP/VacancyReport> (advertised job vacancies)

award only employees. Women were 64.29 per cent of award reliant casual employees (Table 2).⁹

Table 2: Method of setting pay, number and type of employees by gender (May 2014)

Type of employee by gender	Method of setting pay ('000)			
	Award only	Collective agreement	Individual arrangement	All methods of setting pay
Male permanent or fixed term employees	493.1	1 504.4	1 805.4	4 042.9
Male casual employees	296.3	326.0	232.0	854.4
All male employees	789.4	1 830.4	2 037.4	4 897.2
Female permanent or fixed term employees	537.9	1,807.9	1 276.4	3 722.5
Female casual employees	533.4	431.9	313.9	1 279.2
All female employees	1 071.3	2 239.7	1 590.3	5 001.7
All permanent or fixed term employees	1 031.0	3 312.2	3 081.8	7 765.4
All casual employees	829.7	757.9	545.9	2 133.5
All employees	1 860.7	4 070.1	3 627.7	9 898.9

Source: ABS Catalogue No. 6306.0 *Employee Earnings and Hours, Australia, May 2014*

- 2.28. Australian Bureau of Statistics (ABS) earnings data shows a significant disparity between award rates and average weekly ordinary full time earnings, with award rates generally not exceeding 50 per cent of average weekly earnings across industry sectors. In some sectors, there is evidence that there is a growing disparity between award rates and average weekly earnings between 2012 and 2014. Similarly, there remain significant disparities between award rates and wages determined by collective agreement and by individual arrangement, which indicates a persistent level of income inequality between low paid workers and those on average weekly earnings or above.
- 2.29. In 2012 and 2014, the gender pay gap over all industries was 18 per cent with women earning 82 per cent of male average weekly earnings. The gender pay gap is compounded by data that indicates that less than 15 per cent of employers have a strategy for flexible working and a strategy to support employees with family or caring responsibilities.
- 2.30. Women in the Australian workforce have a greater reliance on award earnings. Women are more likely to depend on minimum wage regulation in certain industries and occupations. Further, the application of penalty rates is a significant source of income for female workers, who are relatively low paid. This is compounded by the historical undervaluation of 'women's work' leading to industry sectors, which are female dominated, being remunerated less than other sectors.

⁹ ABS Catalogue No. 6306.0 *Employee Earnings and Hours, Australia* (2012 and 2014)

Section 3 The retail, accommodation and hospitality industries in Victoria and Australia

Summary

- 3.1 The retail and hospitality sectors are large employers in Victoria, and are an important source of employment and economic growth. Despite penalty rates being a fixture of the industrial relations system in the retail and hospitality sectors for more than 50 years, available data demonstrates that there has been strong and sustained growth in these sectors over the past several decades, and revenue share has increased in comparison to wage costs.
- 3.2 Latest ABS figures reveal that more than 8600 new small businesses opened in Victoria during the 2014-15 financial year, out of a total nationwide figure of 21,000. Victoria had a 1.6 per cent increase in new business entries on the previous year. Accommodation and food outlets, had the highest business entry rate during the period.¹⁰
- 3.3 The Victorian Government submits that there is insufficient evidence that penalty rates have had a negative impact on economic and employment growth in these sectors across Victoria or Australia. In other words, penalty rates do not appear to have had an adverse impact on the macroeconomic growth conditions in these industries.
- 3.4 Conversely, a reduction in penalty rates is likely to have adverse and disproportionate impacts on award-reliant, low paid classes of workers, including young workers and female workers, in these industries. Any significant changes to award penalty rates could affect earnings over a long period, perhaps over an individual's entire working life, with consequent flow-on effects for welfare services provided by government.
- 3.5 There can be benefits to employees associated with greater flexibility in working hours. However, the majority of Australians (70 per cent) continue to work a 'standard' Monday to Friday week.¹¹ Those working unsocial hours, such as evenings or weekends, are still in the minority.¹² Most Australians recognise and support the retention of compensation for this.¹³
- 3.6 Whilst the past few decades have seen marked changes to patterns of work, leisure and consumption within Australia, the Victorian Government submits that these

¹⁰ Catalogue 8165.0 – *Counts of Australian Businesses, Including Entries and Exits June 2011 to June 2015*, published 26 February 2016

¹¹ According to ABS data, in November 2012, 66 per cent of single jobholders worked five days per week and 70 per cent worked on weekdays only: *ABS Working Time Arrangements, Australia*, November 2012 (Cat No. 6342.0).

¹² Skinner, N and Pocock, B (2014) *The Persistent Challenge: Living, Working and Caring in Australia in 2014*, The Australian Work and Life Index 2014, Centre for Work and Life, University of South Australia, p.11.

¹³ Essential Media, 11 August 2015. Accessed from: <http://www.essentialvision.com.au/tag/penalty-rates>.

changes do not, of themselves, justify a reduction in penalty rates for low-paid workers in specific industries.

- 3.7 The Victorian Government is strongly opposed to treating retail, hospitality and accommodation workers less favourably than workers in other industries. It is the view of the Victorian Government that adequate rest breaks and recreation time in socially valuable hours, should be made available to all workers regardless of the industry they work in, or the prevailing norms around operating hours in that industry.
- 3.8 The Victorian Government supports this principle in its arrangements for Victorian public sector workers.

Victorian employment patterns in retail, food and accommodation services

- 3.9 Since 1966, there has been a marked growth in service industries across Australia, rising from around 60 per cent of total output in the 1960s to around 80 per cent (as at 2010).¹⁴ The retail industry is now the second largest employer in Australia, at 11 per cent, followed closely by food and accommodation services.¹⁵
- 3.10 Over the past five years in Australia, employment in accommodation and food services has increased. Sales and profit growth has been mixed from September 2010 to September 2015, but overall, growth has seen an upward trajectory. This growth appears to have been largely driven by the growth in cafes, restaurants and takeaway. Understandably, growth in these areas slowed down during the Global Financial Crisis, due to an increase in consumer caution over discretionary spending, but the rate of growth has since picked up.
- 3.11 The retail, accommodation and food services sectors account for 7.6 per cent of the Victorian economy, 18.6 per cent of total employment and a 16 per cent share of total hours worked.¹⁶ Together, they are a major employer of Victorian workers, and in particular, are the largest employer of young Victorians.
- 3.12 ABS data from 2011¹⁷ indicates that retail and hospitality is a substantial employer for rural Australians, accounting for 18 per cent of the workforce; this is just above that for the non-rural population (17 per cent). The retail and hospitality sectors in Victoria are dominated by a large number of small businesses. Out of the 36,002 actively trading businesses in the retail sector, 96 per cent are small businesses, with only 0-19 employees); and in hospitality, out of the 22,927 actively trading businesses, 93.7 per cent are small businesses.¹⁸
- 3.13 Contrary to common perceptions, the age and demographic profile of the retail and hospitality sectors is mixed, with a large number of both older and younger workers. In Victoria, the retail sector employs around 108,500 workers aged 15-24 years of

¹⁴ <http://www.rba.gov.au/publications/bulletin/2010/sep/pdf/bu-0910-1.pdf>

¹⁵ ABS, *Year Book Australia, 2009–10*, Cat. no. 1301.0 -

¹⁶ ABS *Labour Force, Australia*, Feb 2015, Cat. No. 6202.0.

¹⁷ Census of Population and Housing

¹⁸ ABS, *Counts of Australian Businesses, including Entries and Exits, Australia*, Cat. no. 8165.0

age, while the hospitality industry employs 78,000 young people.¹⁹ However, the retail sector in Australia is the fourth largest employer of people aged 55 and over, and the number of mature aged workers in retail has increased 50 per cent in the last ten years.²⁰

- 3.14 The retail and hospitality industries in Australia are highly casualised, with 38 per cent of retail workers engaged as casual employees, as compared to 26 per cent across all industries.²¹ This figure is even higher in the restaurant industry, where 53.4 per cent of all employees are casual.²² However, despite the high level of casualisation, 81 per cent of workers in the Australian retail industry and 76 per cent of workers in the food and accommodation sector tend to remain with the same employer for at least a year. This compares to 75 per cent across all industries of employers who remain with their employer for more than one year.²³
- 3.15 In Australia, of those employees who changed employers in the past year, 42 per cent of workers in the retail sector remained in the industry, while 52 per cent of hospitality workers remained in the industry, as compared to 47 per cent across all industries.²⁴ The relatively high level of workers remaining with the same employer, or at least in the same industry, appears to indicate that for many workers, these jobs are not just a temporary stepping-stone to employment in other industries. Rather, there is a large cohort of retail and hospitality workers who have made a long-term, career choice to remain within these industries.
- 3.16 Victorian women are strongly represented in these industries (57 per cent in the accommodation and food services industries and 56 per cent in the retail sector).²⁵ Women working in these industries are also more likely to be casuals than men working in these industries. Of the female workers in accommodation and food services, 61.3 per cent of all do not receive paid leave entitlements, compared to 52.1 per cent of men.
- 3.17 These industries also contain the highest number of award-reliant workers. Across Australia, 17.2 per cent of the retail sector are award-reliant employees, while in the hospitality industry, 17 per cent of all workers are award reliant. These are the highest rates of any industry sector in Australia. Workers in accommodation and food services are lower paid than other industries, and on average the weekly earnings of these employees is less than half (48.9 per cent) the average across all industries.
- 3.18 Nationally, the retail and accommodation and food services sectors have experienced strong and sustained growth over the past 20 years, with employment

¹⁹ ABS *Labour Force, Australia*, Feb 2015, Cat. No. 6202.0

²⁰ Australian National Retail Council

²¹ Service Skills Australia, *Retail Workforce Study*, March 2014.

https://www.serviceskills.com.au/sites/default/files/files/Publications/Retail%20workforce%20study_1.pdf

²² *Ibid*

²³ ABS, *Labour Mobility, Australia*, February 2013 Cat. no. 6209.0

<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6209.0/>

²⁴ *Ibid*.

²⁵ ABS *Labour Force, Australia*, Feb 2015, Cat. No. 6202.0

growth of 51.7 per cent in these industries as compared to 46 per cent employment growth across all industries.²⁶

- 3.19 Forecast projections to 2019 predict strong growth in these industries nationally. In the accommodation and food services sector, growth is expected to increase by 112,400 people, or 13.9 per cent, between November 2014 and November 2019. Over the same time frame, in the retail sector, employment is predicted to increase by 8.9 per cent, which equates to an additional 111,100 workers.²⁷ This growth is largely driven by the lower Australian dollar, which is expected to result in an improvement in domestic tourism.²⁸
- 3.20 Given the relatively long average length of service in these industries, the lower-than-expected turnover in labour, and the large number of award-reliant people employed in these industry sectors, it is reasonable to assume that any major change to award minimum wages or conditions is likely to have a long-term and sustained financial impact on a large number of workers. Any significant changes to award penalty rates could affect earnings over a long period, perhaps over an individual's entire working life. In particular, this will have a disproportionate impact on female workers.

Changing patterns of work and leisure

- 3.21 Whilst the past few decades have seen marked changes to patterns of work, leisure and consumption within Australia, the Victorian Government submits that these changes do not, of themselves, justify a reduction in penalty rates for low-paid workers.
- 3.22 There are a range of influences, including technological, economic and demographic changes, which have resulted in changes to the nature, frequency and extent of working hours. Weekend and evening trading is a commercial reality for many industries, reflecting changing consumer preferences and trading deregulation.
- 3.23 Victoria deregulated its trading hours and lifted limitations on Sunday trading in 1996. Trading hours vary on a state-wide basis and business by business, but Sundays are now the second busiest day for retailers in Victoria.²⁹
- 3.24 While an increasing number of Australians report having some form of non-traditional pattern of working hours, the majority of Australians (70 per cent) continue to work a 'standard' Monday to Friday week.³⁰ Those working unsocial hours, such as evenings or weekends, are still in the minority.³¹

²⁶ ABS *Labour Force, Australia*, Feb 2015, Cat. No. 6202.0

²⁷ *Ibid.*

²⁸ Australian Government – Department of Employment Industry Employment Projections March 2015

²⁹ Monash University, *Sunday Trading in Australia Research Report*, August 2012

³⁰ According to ABS data, in November 2012, 66 per cent of single jobholders worked five days per week and 70 per cent worked on weekdays only: ABS *Working Time Arrangements, Australia*, November 2012 (Cat No. 6342.0).

³¹ Skinner, N and Pocock, B (2014) *The Persistent Challenge: Living, Working and Caring in Australia in 2014*,

- 3.25 According to the ABS national data, in November 2012:
- (a) 29 per cent of single jobholders and 57 per cent of multiple job holders worked on both weekdays and weekends;
 - (b) 14 per cent of single jobholders usually worked on Saturdays and 8 per cent usually worked on Sundays; and
 - (c) 37 per cent of multiple jobholders usually worked on Saturdays and 26 per cent usually worked on Sundays.³²
- 3.26 Based on this national data, in November 2012 it is estimated that in Victoria:
- (a) 374,000 employees usually worked Saturdays in their main job;
 - (b) 213,000 employees usually worked Sundays in their main job;
 - (c) 328,000 employees usually worked paid overtime in their job; and
 - (d) 157,000 employees usually worked between 7pm and 7am.
- 3.27 There can be benefits to employees associated with greater flexibility in working hours. For example, for those engaged in full-time caring responsibilities or study during the week, it may be the only time they have available to earn an income. It can also act as an additional source of revenue for employees who are engaged in full-time employment during the week.
- 3.28 Where workers state a preference for working on weekends the additional remuneration usually earned on weekends, in the form of penalty rates, is likely to be a major incentive for that preference.³³
- 3.29 However, while it may suit some workers to work on weekends and in the evenings, other employees with little or no bargaining power may be obliged to work extended evening or weekend hours contrary to their domestic responsibilities, social structural commitments such as school hours, or personal preference, in order to gain or retain employment.³⁴
- 3.30 Moreover, even for those workers who are only available to work on weekends due to other commitments, their choice to work unsocial hours comes at a price, in the form of a reduction in leisure hours, and less time spent with friends, family or at social or community activities.
- 3.31 In its recent review of the workplace relations framework, the Productivity Commission emphasised the demand for services to be provided 24 hours a day, seven days a week.³⁵ Community expectations were cited as justification for reducing penalty rates in some industries.³⁶

The Australian Work and Life Index 2014, Centre for Work and Life, University of South Australia, p.11.

³² ABS *Working Time Arrangements, Australia*, November 2012 (Cat No. 6342.0).

³³ Daly, T. (2014) *Evenings, nights and weekends: working unsocial hours and penalty rates*, Centre for Work + Life, University of South Australia

³⁴ See: Commissioner Hingley in AIRC Q9229, January 1999.

³⁵ While retail trading hours have increased substantially over the past decades, it is not strictly correct to say that the retail and hospitality sectors now operate on a 24/7 basis. Save for a small number of stores that are

- 3.32 However, the Victorian Government submits that there is also a community expectation and recognition that workers who do work on weekends and public holidays should be reasonably compensated for doing so. This view is supported by survey results that suggest that members of the community support the payment of penalty rates regardless of the worker's industry.³⁷ In other words, there appears to be broad community support for the payment of penalty rates with no real distinction made between workers in areas such as healthcare and emergency services, and those in retail and hospitality.

The continuing importance of penalty rates to compensate unsociable hours

- 3.33 Penalty rates are a longstanding feature of the Australian industrial relations system.³⁸ However, in 2015, the Productivity Commission released its report into the Workplace Relations Framework recommending that penalty rates for retail and hospitality workers should be reduced on Sundays.³⁹ Other submissions made to the Fair Work Commission put a variety of positions advocating for reductions in penalty rates. The issue of penalty rates has already been widely debated through the award modernisation process and past test cases.
- 3.34 The Victorian Government submits that penalty rates remain an important way to compensate workers for working unsociable hours.
- 3.35 Although changing consumer preferences have had a significant impact on working hours in the retail and hospitality sectors, these changes have taken place gradually over decades, and have already been thoroughly considered in previous decisions made by various industrial relations bodies.
- 3.36 The Fair Work Commission and its predecessors have taken a consistent position on the importance of remuneration for working unsocial hours. For example, in 2004, the Australian Industrial Relations Commission determined that the extension of Sunday trading did not diminish the unsociability of weekend work.⁴⁰
- 3.37 The implications of historical changes to working hours were further debated during the award modernisation process, with an extensive submissions process that lasted

open on a continuous basis, such as 7/11 stores and some petrol stations, the vast majority of businesses in these sectors are open during extended hours, but not 24/7.

³⁶ See Part 11.1 of the Productivity Commission's Final Report

³⁷ In polling conducted by Essential Media, it was found that only 32 per cent of those surveyed approve of reducing Sunday penalty rates for workers in hospitality, entertainment and retail, while 54 per cent disapprove. When asked more generally whether they support higher rates of pay for people who work outside business hours, an overwhelming majority (81 per cent) were supportive, and a further 68 per cent of those surveyed opposed any cuts to weekend and public holiday penalty rates.

³⁸ Penalty rates have been a condition of Australian employment since 1909, when Justice Higgins awarded a rate of double time for all workers employed on the "seventh day of work" (i.e. Sunday). In a further decision made in 1947, the Commonwealth Conciliation and Arbitration Commission entrenched the payment of separate rates for weekends, and established a figure of 125 per cent for Saturdays, and 200 per cent for Sundays. Saturday rates were introduced and differentiated from Sunday rates.

³⁹ Productivity Commission, *Inquiry Into Australia's Workplace Relations Framework, Final Report*, December 2015

⁴⁰ *Shop, Distributive & Allied Employees' Association & \$2 and Under and Others AIRC* [PR941526] at [106].

from July 2008 to December 2009, and a further review process in 2012. This process included consultation with key industry and employee groups, an examination of prevailing industry conditions, and a consideration of the penalty rates present in each of the various state-based pre-modern awards.

- 3.38 Since that extensive process was undertaken just five years ago, the Victorian Government considers that there has not been any substantive change in the economy, social standards or community expectations to warrant a significant departure from those arrangements.
- 3.39 In the 2012 Modern Awards Review, the Fair Work Commission noted that:
*...there are disabilities associated with work at unsociable times and recognition through additional rates is generally warranted as part of the modern award safety net.*⁴¹
- 3.40 In 2014, the Fair Work Commission again recognised the disability associated with working on Sundays, being the loss of a day of family time and personal interaction upon which special emphasis is placed by Australian society.⁴²
- 3.41 The Victorian Government supports that approach and assessment of the continuing importance of penalty rates.

Penalty rates across other industries

- 3.42 The Victorian Government is strongly opposed to treating retail, hospitality and accommodation workers less favourably than workers in other industries, creating an unfair, two-tier system of entitlements and an under-class of Australian workers. The Productivity Commission in its report on the workplace relations framework recommended that workers in the retail, hospitality, accommodation and entertainment industries be treated less favourably than workers in other industries (to be specific, 'emergency services').⁴³ The Productivity Commission offered no reasonable explanation to justify this differentiation.
- 3.43 The Victorian Government submits that there is no rationale for treating workers in some industries differently to other workers *vis à vis* penalty rates. In this respect the Victorian Government does not support the recommendation of the Productivity Commission.
- 3.44 Retail and hospitality are not unique in requiring trading hours during unsocial times. Other sectors, such as the healthcare and emergency services sectors, are also generally expected to operate at nights and weekends and given the essential services nature of those industries, this is more of an operational requirement in this sector than it is in the retail and hospitality industries.

⁴¹ Modern Awards Review 2012 – Penalty rates [2013] FWCFB 1635 at [218].

⁴² Restaurant and Catering Association of Victoria [2014] FWCFB 1996 at [128].

⁴³ See Part 11.1 of the Productivity Commission's Final Report

- 3.45 If the Commission accepts the argument that penalty rates should not be paid, or paid at a reduced rate, in industries where the prevailing norm is to work during unsocial hours, then this has potential ramifications for the payment of penalty rates across other industries.
- 3.46 Awards act as a regulatory floor for wages and conditions in businesses that operate under an enterprise agreement. It is therefore possible that any changes made to penalty rates in the applicant awards could have some flow-on effects to the penalty rates found in various enterprise agreements.
- 3.47 It is the view of the Victorian Government that adequate rest breaks and recreation time in socially valuable hours, should be made available to all workers regardless of the industry they work in, or the prevailing norms around operating hours in that industry. Where this is unavailable due to prevailing expectations in a particular industry, workers should be recognised and compensated for working unsociable hours.

Penalty rate arrangements in the Victorian public sector

- 3.48 The Victorian Government is committed to providing fair and decent wages and conditions to our employees, and believes that this can be achieved while also providing value for money to the Victorian community.
- 3.49 As one of Victoria's largest employers, the Victorian Government strives to be a model employer and to that end penalty rates for many workers are included under Victorian public sector agreements. In some agreements, penalty rates are not applied and public sector workers are compensated in other ways.
- 3.50 The key Victorian Public Sector industrial instruments covering shift work employees all contain penalty or additional rates associated with weekend and night work.
- 3.51 Consistent with the Fair Work Act provisions relating to award modernisation, the Victorian Government has nearly finalised the modernisation of the Victorian Public Service Award 2005 (VPS Award). The draft *Victorian Public Service Modern Award 2014 (VPS Modern Award)* does not reduce the penalty rates contained in the VPS Award. It also integrates two additional awards that apply to approximately 5200 Crown employees engaged in nursing and disability services. These additional awards cover rostered workforces that work weekends and nights and also contains the requisite penalty rates. The penalty rates contained in these awards are preserved in the VPS Modern Award.
- 3.52 The *Victorian Public Sector Workplace Determination 2012* has recently been renegotiated. Penalty rates have not been removed or reduced. Shift work employees working Saturdays receive an additional 50 per cent allowance, for those working Sunday it is an additional 100 per cent, and public holidays attract an additional 150 per cent. Non-shift work employees who work weekends are also entitled to receive penalty rates with Sunday work attracting higher penalty rates.

- 3.53 The *Victorian Public Health Sector (Health Professionals, Health and Allied Services, Managers and Administrative Officers) Enterprise Agreement 2011 – 2015* applies to 86 Victorian employers engaged in health services. The Agreement contains penalty rates, including shift allowances. Additional rates apply to ordinary hours rostered on the weekend.
- 3.54 The *Nurses and Midwives (Victorian Public Health Sector) (Single Interest Employers) Enterprise Agreement 2012 – 2016* covers 134 employers and their nursing and midwives staff. The agreement contains additional rates for staff rostered to work weekends. Shift work allowances are also paid and the amounts paid vary depending on time the shift is worked.
- 3.55 The *Victoria Police Force Enterprise Agreement 2011* provides additional payments for police officers who work unsociable or intrusive hours and includes weekend work. The highest penalties are associated with night work. These rates will increase once the new enterprise agreement is approved and comes into effect.

Section 4 Potential impact of varying penalty rates

Summary

- 4.1 A number of proposals have been made to the Fair Work Commission to vary penalty rate arrangements in awards in the retail and hospitality sectors. These proposals include:
- (a) Removing penalty rates for casual employees working on public holidays.
 - (b) Removing penalty rates for casual employees on Sundays.
 - (c) Reducing penalty rates for permanents and/or casuals on public holidays.
 - (d) Reducing penalty rates for permanents and/or casuals on Sundays.
 - (e) Reducing penalty rates for permanents and/or casuals on Saturdays.
 - (f) Varying hours of work for evening and early shift-work penalties and/or reducing the shift-work penalties for those hours.
 - (g) Introducing a two-tiered approach to public holidays, with national public holidays being paid at higher rates to state-gazetted public holidays.
- 4.2 This section examines the probable effects of the above proposals.
- 4.3 The Victorian Government argues that a reduction in penalty rates, and consequent reduction in take-home pay, is likely to have a negative impact on award-reliant workers. The most obvious impact is a reduction in financial security and potentially a reduced ability to meet household and other financial expenses. However, there may be more far-reaching consequences, including potential impacts on health and safety if workers feel obliged to work more hours to make up for the shortfall in pay. Female workers, young workers, and the low skilled, will be particularly affected by this.
- 4.4 Some commentators suggest that a reduction in penalty rates will benefit the national economy, consumer prices and productivity. On the other hand, while individual employers could certainly expect to benefit from a reduction in their wages bill, it does not necessarily follow that this would be passed on to the consumer, nor that there would be any consequent improvements in terms of productivity gains. The Victorian Government's focus is on improving productivity through a state-wide strategy to encourage growth and investment, while supporting and investing in high growth industries.
- 4.5 Moreover, economic modelling suggests that reducing penalty rates may, in fact, have a disproportionately negative impact on rural and regional economies.⁴⁴ This could mean potential ramifications for governments and the community sector in terms of an increased reliance on working age payments and community services for those employees whose take-home pay is reduced. As noted, ABS data from 2011⁴⁵

⁴⁴ McKell Institute, *Who Loses When Penalty Rates Are Cut? The economic impact of penalty rate cuts in Australia's retail and hospitality industries*. Accessed from: http://mckellinstitute.org.au/wp-content/uploads/pdf/McKell_Penalty_Rates.pdf.

⁴⁵ Census of Population and Housing

indicates that retail and hospitality is a substantial employer for rural Australians, accounting for 18 per cent of the workforce, and 30 per cent of retail jobs are located in regional and remote areas. The wages earned by retail staff in those communities is spent in those communities. Reducing the incomes of local workers may hurt the local businesses that rely on their custom.⁴⁶

- 4.6 The Victorian Government notes that there is no current, comprehensive and comparative data source from which the scope and application of penalty rates in the Australian workforce can be specifically quantified. Therefore, any modelling relies on a number of reasonable assumptions and available data on working time arrangements and award wage rates.⁴⁷

Individual employers

- 4.7 Individual employers are likely to be the main beneficiaries of any reduction in penalty rates, through a reduction in their wage bill, and the flexibility to decide how to spend the additional savings incurred.
- 4.8 Estimates, as at 2012, place labour costs in the retail sector at about 47 per cent of total business expenses⁴⁸ reflecting that service industries tend to be more reliant on labour than on capital. However, in the retail sector, labour costs and wages growth have decreased in recent years, while occupancy costs have risen, with Australia paying a higher share of revenue on rent as compared to the United States and the United Kingdom.⁴⁹
- 4.9 In the hospitality sector, there is evidence that the ratio of wage costs to revenue has reduced since 2006. For example, in the café and coffee shop sector, the ratio has fallen from around 27 per cent in 2006 to 23.1 per cent in 2015-16, and is projected to reduce further to 22.6 per cent by 2020-21.⁵⁰ As illustrated in Figure 1 below, a similar trajectory can be seen for various subsectors within the hospitality industry.
- 4.10 In most sections of the retail sector, revenue has also increased in comparison with wage costs since 2006. For example, as illustrated in Figure 2 below, wage costs as a percentage of revenue in supermarkets have dropped from over 10 per cent in 2006 to below 10 per cent in 2014-2015, with further decreases expected by 2020-2021.⁵¹

⁴⁶ *State of the Sector Report 2015*

⁴⁷ *ABS Working Time Arrangements, Australia*, November 2012 (Cat. No. 6342.0).

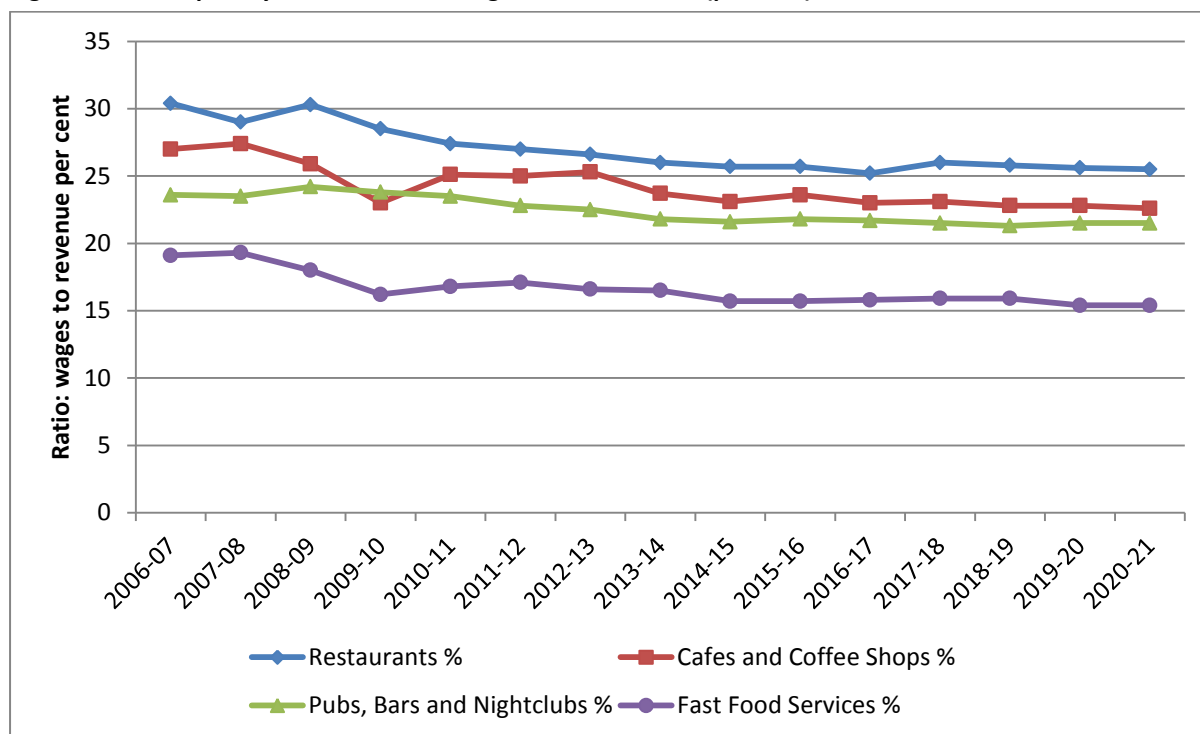
⁴⁸ Productivity Commission, *Relative Costs of Doing Business in Australia: Retail Trade*, September 2014.

⁴⁹ *Ibid.*

⁵⁰ IBISWorld Industry Report H4511a, July 2015 *Restaurants in Australia*; IBISWorld Industry Report H4511b, July 2015, *Cafes and Coffee Shops in Australia*; IBISWorld Industry Report H4520, January 2016, *Pubs, Bars and Nightclubs in Australia*; IBISWorld Industry Report H4512, December 2015, *Fast Food Services in Australia*.

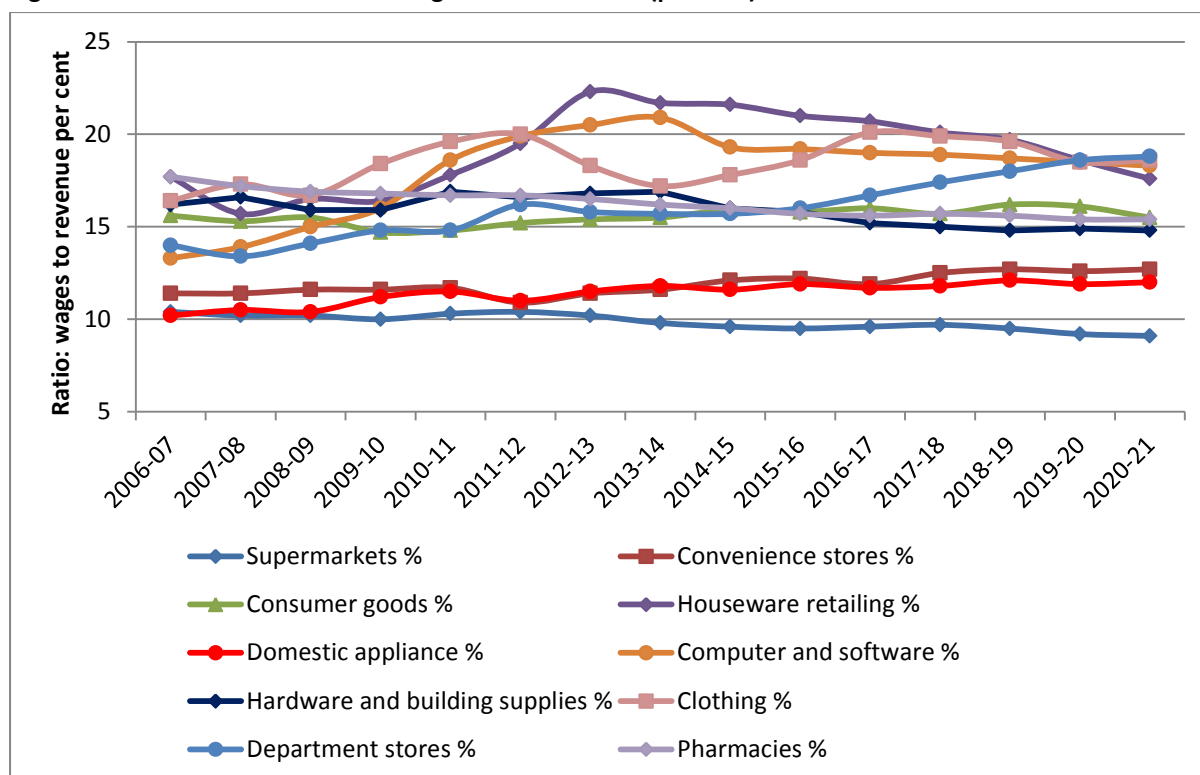
⁵¹ IBISWorld Industry Report G4111, September 2015, *Supermarkets and Grocery Stores in Australia*; IBISWorld Industry Report G4200, July 2015, *Consumer Goods Retail in Australia*; IBISWorld Industry Report G4221a, September 2015, *Domestic Appliance Retailing in Australia*; IBISWorld Industry Report G4231, October 2015, *Hardware and Building Supplies Retailing in Australia*; IBISWorld Industry Report G4260, December 2015, *Department Stores in Australia*; IBISWorld Industry Report G4112, September 2015, *Convenience Stores in Australia*; IBISWorld Industry Report G4213, December 2015, *Houseware Retailing in Australia*; IBISWorld

Figure 1: Hospitality sector: Ratio of wages versus revenue (per cent) – 2006-7 to 2020-21



Source: IBIS World

Figure 2: Retail sector: Ratio of wages versus revenue (per cent) – 2006-7 to 2020-21



Source: IBIS World

Industry Report G4222, October 2015, *Computer and Software Retailing in Australia*; IBISWorld Industry Report G4251, July 2015, *Clothing Retailing in Australia*; IBISWorld Industry Report G4271a, July 2015, *Pharmacies in Australia*.

- 4.11 Of the proportion of business expenses set aside for the payment of labour, penalty rates may only comprise a small proportion of the wage bill. Individual employers may be financially better off with a reduction in their penalty rates payments. However, this benefit must be weighed up against the disadvantage faced by workers, and potentially the broader community, if penalty rates are reduced. The loss of consumer spending power must also be taken into account.

Award-reliant workers

- 4.12 For low-paid workers in the retail and hospitality industries, penalty rates comprise an important part of their take home pay.
- 4.13 Of employees who received penalty rates for working unsociable hours, 34.6 per cent relied on penalty rates for household expenses, and these employees are more likely to be women, sole parents, living in rural or regional locations or employees with combined household incomes less than \$30 000.⁵²
- 4.14 There is also evidence to suggest that for many workers, the choice to work unsocial hours is driven largely by the financial incentive of penalty rates.⁵³ For these employees, their ability to choose whether to work unsocial hours is constrained by their economic realities. Employees whose combined household income was at or above \$90,000 were less likely to receive or rely upon penalty rates.
- 4.15 Of those employees who did receive penalty rates, 62.2 per cent would choose to stop working non-standard hours if penalty rates or additional pay were not offered.⁵⁴ However, for households that depend upon penalty rates for household expenses households will be required to manage on less income that could lead to a lowering of living standards. Another implication could be that employees may need to work longer hours to make up those earnings lost due to a reduction in penalty rates.
- 4.16 It is generally accepted that workers in these industries have limited bargaining power (for example, through low skills, low rates of union membership or the precarious nature of some employment). Limited bargaining power can contribute to pressures on low-skilled employees to work on weekends and evenings, even with a reduction in penalty rates, not because they want to or because it suits their lifestyle, but rather because of the risk of losing their employment if they refuse.
- 4.17 Workers also face costs when they come to work. They must pay for transport and child care arrangements. These costs are often higher on weekends and evenings: for example, transport costs may be increased due to a lack of public transport options, and child care arrangements may be more expensive. For some workers, a reduction in income may make it unviable to continue working, as these costs will become an unsustainable burden.

⁵² Daly, T. (2014) *Evenings, nights and weekends: working unsocial hours and penalty rates* Centre for Work + Life, University of South Australia, p.3.

⁵³ *Ibid.*

⁵⁴ Daly, T. (2014) p 13.

Figure 3: How much could workers lose if penalty rates are reduced?⁵⁵

Scenario 1: Retail

A casual Level 1 employee in the retail industry would have their penalty rates reduced from double time to time and a half working on a Sunday. This equates to an \$86.57 reduction in Sunday pay. Assuming the worker is engaged for 38 hours per week, this would be an 8.4 per cent reduction in their take-home pay, from \$1 024.77 to \$938.20 a week. If the employee works on a public holiday, they would no longer receive public holiday penalty rates, meaning that their hourly rate of pay would be halved and they would lose \$216.47 for that day's work.

Scenario 2: Restaurant

A permanent Level 1 worker employed 38 hours per week in a restaurant or eat-in café would have their weekly wage cut by \$39.97, from \$784.50 to \$744.53. The Sunday rate of pay would be reduced from time and a half to time and a quarter, equating to a reduction of \$33.82. For three hours of evening work between 10pm and midnight, the employee would only be paid an additional 89 cents in total over the three hours. If the worker is engaged on a public holiday their rate of pay for that day would be reduced from \$338.01 to \$202.80, a 40 per cent reduction in their wage on that day.

Scenario 3: Fast food

A full time Level 1 employee at a takeaway shop would have their weekly wage reduced by \$38, from \$835.60 down to \$797.60 per week. This equates to a wage cut of 4.55 per cent, with Sunday penalty rates reduced from time and a half to time and a quarter. If the employee is required to work on a public holiday, their wage would be reduced from \$360.85 to \$216.52, which is a 40 per cent reduction.

Scenario 4: Hospitality

A casual Level 1 hotel employee would have their Sunday rate cut by \$33.82, which equates to a 3.52% wage cut. If the employee works on a national public holiday, they would have their take home pay reduced from \$371.79 to \$236.59. If that same employee is asked to work on a state gazetted public holiday, such as Melbourne Cup Day, they would only receive their ordinary hourly rate of pay. This means instead of receiving \$371.79 for the day's work, their take home pay would be less than half that, at only \$169.02.

Female workers

- 4.18 Women are among the majority of low-paid workers and are more likely to be award-reliant than men. This is particularly the case in the retail and hospitality sectors, where women comprise 56 per cent and 57 per cent of the workforce, respectively. As such, it is likely that a reduction in penalty rates will have a disproportionate impact on women workers.
- 4.19 This is compounded by the fact that women are more likely to be primary carers and therefore may have less choice in their working hours than men, leading to situations where women may be forced to accept a reduction in take home pay in order to continue working during evenings and weekends, when it is more likely that another carer might be available to take over their caring duties.

⁵⁵ The examples provided are hypothetical, based on the draft award variations made to the Fair Work Commission. Each scenario is based on modelling for a Level 1 employee over a 38 hour week, including three hours of evening shift work, a Saturday, and a Sunday. Exact amounts may vary depending on the exact hours worked, classification and pay rate of an individual employee.

- 4.20 Women are also more likely to be casually employed, which means they have little or no bargaining power if their penalty rates are reduced, and may be forced to accept a lower wage rate or find themselves unemployed.
- 4.21 Women are disproportionately affected by a gender pay gap as set out in other sections of this submission.

Work health and safety

- 4.22 There have been a number of studies confirming the detrimental impact on health, family and personal relationships that working at night or weekends can have.⁵⁶ Daly's analysis of 2014 *Australian Work and Life Index (AWALI)* data showed that working on Sundays is associated with higher levels of work-life interference, significantly more than working Saturdays or weekdays.⁵⁷
- 4.23 As Daly reports, working early mornings or nights "not only presents challenges to biological functions such as sleep, it is often incompatible with the rhythms and schedules of social, family and community activities".⁵⁸ Weekend workers may not easily be able to substitute or offset the loss of weekend leisure time with time during the week - weekend workers may be engaged in some other paid or unpaid occupation during weekdays which preclude them from spending that time on rest and recreation. This could be additional paid work, studies or caring responsibilities. ABS research suggests that there are persistent negative effects in losing weekend time, particularly for Sunday workers.⁵⁹
- 4.24 Moreover, some weekend workers will be engaged in work activities for longer hours overall. Working longer hours has been shown to have a detrimental impact on health and safety, with evidence suggesting that working long hours is associated with a 61% higher injury rate compared to jobs without overtime.⁶⁰

Penalty rates and employment

- 4.25 The Victorian Government is strongly committed to job creation and employment growth through investment opportunities. Employment has many benefits for both individuals and for the community as a whole, in terms of increased financial security, additional revenue through income taxes, and benefits flowing from increased social participation.

⁵⁶ Caruso, C. C. (2006) 'Possible broad impacts of long work hours' *Industrial Health*, 44(4). Hook, J. L. (2012) 'Working on the weekend: Fathers' time with family in the United Kingdom' *Journal of Marriage and Family*, 74. Strazdins, L., Clements, M. S., Korda, R. J., Broom, D. H., & D'Souza, R. M. (2006) 'Unsociable work? Nonstandard work schedules, family relationships, and children's well-being' *Journal of Marriage and Family*, 6, 2006. Wirtz, A., Nachreiner, F., & Rolfes, K. (2011) 'Working on Sundays – Effects on safety, health, and work-life balance' *Chronobiology International*, 28(4).

⁵⁷ Daly, T. (2014) *Evenings, nights and weekends: working unsocial hours and penalty rates*, Centre for Work + Life, University of South Australia, p.3.

⁵⁸ Daly, T. (2014) pp. 1-2.

⁵⁹ Craig, L. and Brown, J. (2014) 'Nonstandard employment and nonwork activities, time alone and time with others: Can weekend workers make up lost time?' *Journal of Industrial Relations*, December 2014.

⁶⁰ Dember, a., Erickson, J., Delbos, R., Banks. S. (2005) 'The impact of overtime and long work hours on occupational injuries and illnesses' *Occupational and Environmental Medicine*, Volume 62, Issue 9, 2005.

- 4.26 The experience in South Australia is illustrative here. As a result of the award modernisation process, penalty rates were reduced in the South Australian restaurant industry from double time on Sundays to time and a half for permanent employees, and time and a quarter for Level 1 and Level 2 casual employees.⁶¹ This compares to restaurants in Victoria, where the Sunday penalty rate was originally time and three quarters.^{62 63}
- 4.27 A comparison between the economic growth of the cafes and restaurant sector in Victoria and South Australia reveals that the Victorian cafes and restaurant sector has outperformed the South Australian sector since 2010, with turnover in Victoria increasing by 37 per cent between January 2010 and November 2015, while turnover growth was less than a third of that in South Australia, at only 9 per cent.⁶⁴ In the same time period immediately preceding this change, from March 2004 to January 2010, turnover growth was much higher in South Australia, at 45 per cent, compared to 11 per cent in Victoria.
- 4.28 If penalty rates were a significant burden on the restaurant industry, then reducing them in the manner seen in South Australia should have had a noticeable impact on the growth of that sector. This has not been the case. Whilst there are a range of factors that could have negatively influenced restaurant growth in South Australia since 2010, these figures do not support the argument that reducing penalty rates will have a significant impact on the overall turnover of the restaurant industry sector.
- 4.29 It is also possible that reducing penalty rates will have a labour displacement effect instead of increasing employment opportunities overall. For example, if penalty rates are reduced, a small business owner may choose to employ someone in their place rather than working themselves on a weekend. Alternatively, if changes supported by some employer groups are adopted – for example, reducing or removing penalty rates for casuals as compared with ongoing employees – casual staff may benefit at the expense of ongoing staff in terms of number of hours of employment available to them, displacing those ongoing staff for weekend work.
- 4.30 Even if labour supply costs decrease, in the form of a reduction in penalty rates, this is not likely to be the principal factor driving business decisions relating to labour demand. In other words, even if a business finds its wage bill is cut in half on a Sunday; it does not follow that that business would benefit by doubling its staffing. The primary driver for increasing staffing levels would be customer demand, and if demand stays constant, there would therefore be no business need to increase labour supply. Instead, the employer may use the money saved on wages for other purposes; for example, on increased profits, or capital investment (such as equipment purchase) or marketing.

⁶¹ The relevant awards are *AN150025 Cafes and Restaurants (South Australia) Award* (the pre-modern award) and *MA000119 Restaurant Industry Award 2010* (the modern award).

⁶² The relevant pre-modern award for the restaurant sector in Victoria was *AP787213CRV - Liquor and Accommodation Industry - Restaurants - Victoria - Award 1998*

⁶³ ABS, *Retail Trade, Australia, Nov 2015*, Cat. No. 8501.0

⁶⁴ ABS, *Retail Trade, Australia, Nov 2015*. Cat. No. 8501.0

4.31 Further, even assuming that businesses do use the resultant savings from a penalty rate reduction on increasing their staffing levels, the benefits of this increase in employment are arguably outweighed by the disadvantages associated with reducing income for existing employees. Studies and modelling on wage cuts indicate that, while some people, for example the unemployed, may benefit from an overall increase in aggregate employment, workers overall would be disadvantaged because the costs assisted with a cut in pay outweigh any positive impacts on aggregate employment.

4.32 Impacts on regional and rural Victorian communities

4.33 The Retail Council point out that 30 per cent of retail jobs are located in regional and remote areas and that the wages earned by retail staff in those communities is spent in those communities. Reducing the incomes of local workers may hurt the local businesses that rely on their custom.⁶⁵

4.34 Economic modelling conducted by the McKell Institute indicates that a reduction in penalty rates could lead to a substantial drain from regional and rural economies. If penalty rates are reduced, workers in rural Victoria will lose between \$67 million and \$127.6 million in lost income while the local economy will lose between \$33.5 million and \$68.1 million in discretionary spending.⁶⁶ This is due to the tendency of workers in rural and regional areas to direct the majority of their discretionary spending towards local businesses. Any cuts to the overall income of this group of workers would therefore result in a commensurate reduction in their disposable income, which means they would have less money to spend on local goods and services.

4.35 As well as the potential income loss for workers, a secondary effect is the impact on local economies where those workers have less disposable income. While larger employers may be able to cross-subsidise any losses across multiple business venues, small local businesses will suffer most from an overall reduction in spending in their communities.⁶⁷

Product prices and consumer sentiment

4.36 Whilst some applicant parties have suggested that consumers may benefit from a reduction in penalty rates in the form of lower product prices, employers may choose not to pass on savings to consumers.

4.37 As consumers, low wage workers are powerful drivers of the economy. Comparatively more of their income is spent on goods and services than higher wage workers, who are more likely to save their money or invest in large-scale capital purchases, rather than goods and services. There is a risk that a significant reduction

⁶⁵ *State of the Sector Report 2015*

⁶⁶ McKell Institute, *Who Loses When Penalty Rates Are Cut? The economic impact of penalty rate cuts in Australia's retail and hospitality industries*. Accessed from: http://mckellinstitute.org.au/wp-content/uploads/pdf/McKell_Penalty_Rates.pdf.

⁶⁷ McKell Institute (2016) *Who Loses When Penalty Rates Are Cut? The economic impact of penalty rate cuts in Australia's retail and hospitality industries*. Accessed from: http://mckellinstitute.org.au/wp-content/uploads/pdf/McKell_Penalty_Rates.pdf

in take home pay may lead to reduced buying power throughout the economy, which could lead to lower consumption levels.

- 4.38 A reduction in the penalty rates of award-dependent employees may serve to reduce the incomes and consumer sentiment of this segment of the population, which could lead to reduced consumption and aggregate demand within the economy. The net effect of such changes can be difficult to quantify with certainty, particularly at the state or regional level. However, as illustrated by research conducted by the McKell Institute, it would appear that there might be a particular impact on consumer sentiment within rural and regional economies, where purchases tend to be made locally.⁶⁸
- 4.39 Without compensatory measures in the form of an increase in the overall minimum wage, this may have a depressive effect on the economy. There may be broader repercussions to the state economy that have not yet been explored.

National productivity

- 4.40 The Productivity Commission in its report on the *Economic Structure and Performance of the Australian Retail Industry*, observed that:
- “...compared to other Australian workers, the wages received by retail employees are low and that cutting the pay and conditions of retail workers could potentially have detrimental impacts on productivity and the performance of the industry.”⁶⁹
- 4.41 Reducing wages will not necessarily mean productivity is increased. Lower wages can serve to depress national productivity by stifling innovation and allowing inefficient employers to remain in business. Cutting penalty rates may lead to a lower wages bill overall but it may also negate that drive for innovation in other areas.
- 4.42 The Victorian Government’s focus is on improving productivity through a state-wide strategy to encourage growth and investment, while supporting and investing in high growth industries.

Government revenue and spending

- 4.43 If low income workers have a reduced income, it is expected that some costs may be shifted back onto the government, which may need to pay more overall in the form of welfare support and community services.
- 4.44 There may also be some small reduction in revenue from income taxes, although this is likely to be minor as a proportion of overall taxation revenue, particularly given that the most affected workers are low-paid and some will fall under the \$18,000 tax-free threshold.

⁶⁸ *Ibid.*

⁶⁹ Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry* (Inquiry Report, No. 56, 4 November 2011) p.329.

- 4.45 It is important to note that there is no modelling on this currently available, and the interaction between income, the tax-transfer system, and taper rates for unemployment benefits, are highly complex.

Section 5 Alternatives to reducing penalty rates

Summary

- 5.1 Whilst the retail and hospitality sectors are already experiencing strong growth, there is always room for improvement. The Victorian Government is committed to assisting businesses, particularly small businesses, to continue to grow and meet rising levels of consumer demand.
- 5.2 The Fair Work laws enable employers to modify the default penalty rate regime through enterprise bargaining – provided the arrangements result in employees being better off overall.
- 5.3 In clause 2.2 of each of the applicant awards, there is also a provision for businesses to offset any conditions in awards against over-award payments, meaning that businesses paying wages above the award can use this to offset their obligation to pay penalty rates, provided this is stated in writing to the employee.
- 5.4 Research by the Productivity Commission in 2011 of enterprise agreements in the retail sector, found that a major focus of such enterprise agreements has been to increase employers' ability to tailor employee hours to match variable levels of demand, including between ordinary hours and hours that attract penalty rates. The Commission noted that many retail enterprises that entered into agreements did not take full advantage of the opportunity to adopt flexibility and productivity enhancing provisions.⁷⁰
- 5.5 More recently, the Fair Work Commission conducted research into productive and innovative enterprise agreements, and made a number of useful suggestions for businesses interested in improving their productivity.⁷¹

Victorian Government support for business and job seekers

- 5.6 The Victorian Government is investing in growing industries and helping to create job opportunities. The Government has introduced a range of programs including:
- the Victorian *Back to Work Plan*, which aims to help create 100,000 jobs over two years and comprises the following:
 - The *Back to Work Act*: This provides \$100 million in payroll tax relief to companies that hire unemployed young people, the long-term unemployed and retrenched workers.
 - The *Premier's Jobs and Investment Panel*: A panel of business leaders to provide advice to the Premier on expenditure of \$508 million for strategic infrastructure projects.
 - the *Future Industries Fund*: \$200 million to support growth in six priority industries; medical technology and pharmaceuticals, new energy technology,

⁷⁰ Productivity Commission (2011) p.360.

⁷¹ Fair Work Commission, *Productivity and innovation in enterprise agreement clauses, Future Directions 2014-15: Initiative 29*. December 2014.

food and fibre, transport, defence and construction technologies, international education and professional services.

- The *Regional Jobs and Infrastructure Fund*: \$200 million investment fund to support job creating projects in regional Victoria.
- *Business in Transition Support (BiTS)*: A program that helps reduce the adverse impact of job losses. The BiTS program facilitates, coordinates and supports the delivery of information seminars to employees who are being made redundant. The sessions bring together agencies that are able to assist employees in addressing their individual needs, including focusing on access to new employment opportunities and retraining through Victorian Government programs.
- *Work and Learning Centres*: Funding of \$4.6 million over four years, has been provided to establish five Work and Learning Centres within selected social housing communities in Victoria. The Centres, administered by The Brotherhood of St Laurence on behalf of the Victorian Government, are co-located on social housing estates giving residents better access to the services they need to gain employment or vital skills training.

5.7 The Victorian Government is committed to making workplace participation and engagement in our economy accessible to all workers.

Section 6 Conclusion

- 6.1 The Victorian Government submits that a change to penalty rates, while providing some financial benefit to business, comes at too high a price. Many employees face the prospect of losing a significant proportion of their income. The businesses that will benefit from a lower wage bill may find that people have less discretionary income to spend on their products. A long-term implication is that further pressure may be placed on the social security system as low paid workers seek assistance from the government to make up for their lost wages.
- 6.2 There is insufficient evidence that cutting penalty rates will increase productivity.
- 6.3 There is insufficient evidence that reducing penalty rates will lead to a significant increase in employment opportunities.
- 6.4 The Victorian Government rejects the argument that the current workplace relations framework is not flexible enough, and that cutting penalty rates is a solution to this.
- 6.5 The Victorian Government is strongly concerned about the impact on already vulnerable workers, especially female workers. It believes all workers should be fairly compensated for working unsociable hours and strongly opposes the creation of an underclass of Australian workers. Their time for social, family and recreational activities is just as valuable.

Section 7 Appendix

Impact of proposed penalty rate changes on employees

Table 3: General Retail Industry Award 2010: Permanent Level 1 employee, working 38 hours per week, including ordinary hours, one evening shift, and weekends

Day	Permanent employee (Level 1)				
	Roster	Current penalty rate	Current earnings	Proposed penalty rate	Proposed earnings
Wednesday	7.6 hours	100% \$18.99/hr	\$144.32	100% \$18.99	\$144.32
Thursday	7.6 hours (4.6 hours ordinary time & 3 hours after 6pm)	100% \$18.99/hr 125% \$23.74/hr	\$158.57	100% \$18.99/hr 125% \$23.74/hr	\$158.57
Friday	7.6 hours	100% \$18.99/hr	\$144.32	100% \$18.99/hr	\$144.32
Saturday	7.6 hours	125% \$23.74/hr	\$180.42	125% \$23.74/hr	\$180.42
Sunday	7.6 hours	200% \$37.98/hr	\$288.65	150% \$28.49/hr	\$216.52
Total gross weekly earnings:			\$916.28		\$844.12
Dollar difference				\$72.16	
Percentage difference				12.7%	
Public holiday	7.6 hours	250% \$47.48/hr	\$360.85	175% \$33.23	\$252.57
Dollar difference				\$108.28	
Percentage difference				30%	

Source: FWO (2015) *Pay Guide for the General Retail Industry Award 2010*, July 2015

Table 4: General Retail Industry Award 2010: Casual Level 1 employee, working 38 hours per week, including ordinary hours, one evening shift, and weekends

Day	Casual employee (Level 1)				
	Roster	Current penalty rate (including casual loading)	Current earnings	Proposed penalty rate (including casual loading)	Proposed earnings
Wednesday	7.6 hours	125% \$23.74/hr	\$180.42	125% \$23.74/hr	\$180.42
Thursday	7.6 hours (4.6 hours ordinary time & 3 hours after 6pm)	125% \$23.74/hr 125% \$23.74/hr	\$180.42	125% \$23.74/hr 125% \$23.74/hr	\$180.42

Day	Casual employee (Level 1)				
	Roster	Current penalty rate (including casual loading)	Current earnings	Proposed penalty rate (including casual loading)	Proposed earnings
Friday	7.6 hours	125% \$23.74/hr	\$180.42	125% \$23.74/hr	\$180.42
Saturday	7.6 hours	135% \$25.64/hr	\$194.86	125% \$23.74/hr	\$180.42
Sunday	7.6 hours	200% \$37.98/hr	\$288.65	150% \$28.49/hr	\$216.52
Total gross weekly earnings:			\$1024.77		\$938.20
Dollar difference				\$86.57	
Percentage difference				8.4%	
Public holiday	7.6 hours	275% \$52.22/hr	\$396.89	125% \$23.74/hr	\$180.42
Dollar difference				\$216.47	
Percentage difference				54.54%	

Source: FWO (2015) *Pay Guide for the General Retail Industry Award 2010*, July 2015

Table 5: Restaurant Industry Award 2010: Permanent Level 1 employee, working 38 hours per week, including ordinary hours, one evening shift, and weekends

Day	Permanent employee (Level 1)				
	Roster	Current penalty rate	Current earnings	Proposed penalty rate	Proposed earnings
Wednesday	7.6 hours	100% \$17.79/hr	\$135.20	100% \$17.79/hr	\$135.20
Thursday	7.6 hours (4.6 hours ordinary time, 2 hours after 10pm and 1 hour after midnight)	100% \$17.79/hr 110% \$19.80/hr 115% \$20.81/hr	\$142.24	100% \$17.79/hr 100% \$17.79/hr 105% \$18.68/hr	\$136.09
Friday	7.6 hours	100% \$17.79/hr	\$135.20	100% \$17.79/hr	\$135.20
Saturday	7.6 hours	125% \$22.24/hr	\$169.02	125% \$22.24/hr	\$169.02
Sunday	7.6 hours	150% \$26.69	\$202.84	125% \$22.24	\$169.02
Total gross weekly earnings:			\$784.50		\$744.53
Dollar difference				\$39.97	
Percentage difference				5.09%	
Public holiday	7.6 hours	250% \$44.48/hr	\$338.01	150% \$26.69	\$202.80

Day	Permanent employee (Level 1)				
	Roster	Current penalty rate	Current earnings	Proposed penalty rate	Proposed earnings
Dollar difference				\$135.21	
Percentage difference				40%	

Source: FWO (2015) *Pay Guide for the Restaurant Industry Award 2010*, July 2015

Table 6: Restaurant Industry Award 2010: Casual Level 1 employee, working 38 hours per week, including ordinary hours, one evening shift, and weekends

Day	Casual employee (Level 1)				
	Roster	Current penalty rate (including casual loading)	Current earnings	Proposed penalty rate	Proposed earnings
Wednesday	7.6 hours	125% \$22.24/hr	\$169.02	125% \$22.24/hr	\$169.02
Thursday	7.6 hours (4.6 hours ordinary time, 2 hours after 10pm and 1 hour after midnight)	125% \$22.24/hr 135% \$24.02/hr 140% \$24.90/hr	\$175.24	125% \$22.24/hr 125% \$22.24/hr 130% \$23.13	\$169.91
Friday	7.6 hours	125% \$22.24/hr	\$169.02	125% \$22.24/hr	\$169.02
Saturday	7.6 hours	150% \$26.69/hr	\$202.84	150% \$26.69/hr	\$202.84
Sunday	7.6 hours	150% \$26.69/hr	\$202.84	150% \$26.69/hr	\$202.84
Total gross weekly earnings:			\$918.96		\$913.63
Dollar difference				\$5.33	
Percentage difference				0.58%	
Public holiday	7.6 hours	250% \$44.48/hr	\$338.05	150% \$26.69	\$202.81
Dollar difference				\$135.24	
Percentage difference				40%	

Source: FWO (2015) *Pay Guide for the Restaurant Industry Award 2010*, July 2015

Table 7: Fast Food Industry Award 2010: Permanent Level 1 employee, working 38 hours per week, including ordinary hours, one evening shift, and weekends

Day	Permanent employee (Level 1)				
	Roster	Current penalty rate	Current earnings	Proposed penalty rate	Proposed earnings
Wednesday	7.6 hours	100% \$18.99/hr	\$144.32	100% \$18.99/hr	\$144.32
Thursday (125%)	7.6 hours (4.6	100%	\$150.02	100%	\$148.12

Day	Permanent employee (Level 1)				
	Roster	Current penalty rate	Current earnings	Proposed penalty rate	Proposed earnings
	hours ordinary time, 3 hours between 9pm and midnight)	\$18.99/hr 110% \$20.89/hr 110% \$20.89/hr		\$18.99/hr 100% \$18.99/hr 110% \$20.89/hr	
Friday	7.6 hours	100% \$18.99/hr	\$144.32	100% \$18.99/hr	\$144.32
Saturday	7.6 hours	125% \$23.74/hr	\$180.42	125% \$23.74/hr	\$180.42
Sunday	7.6 hours	150% \$28.49/hr	\$216.52	125% \$23.74/hr	\$180.42
Total gross weekly earnings:			\$835.60		\$797.60
Dollar difference				\$38	
Percentage difference				4.55%	
Public holiday	7.6 hours	250% \$47.48/hr	\$360.85	150% \$28.49/hr	\$216.52
Dollar difference				\$144.33	
Percentage difference				40%	

Source: FWO (2015) *Pay Guide for the Fast Food Industry Award 2010*, July 2015

Table 8: Fast Food Industry Award 2010: Casual Level 1 employee, working 38 hours per week, including ordinary hours, one evening shift, and weekends

Day	Casual employee (Level 1)				
	Roster	Current penalty rate (including casual loading)	Current earnings	Proposed penalty rate	Proposed earnings
Wednesday	7.6 hours	125% \$23.74/hr	\$180.42	125% \$23.74/hr	\$180.42
Thursday	7.6 hours (4.6 hours ordinary time, 2 hours after 10pm and 1 hour after midnight)	125% \$23.74/hr 135% \$25.64/hr 135% \$25.64/hr	\$179.00	125% \$23.74/hr 125% \$23.74/hr 135% \$25.64/hr	\$177.10
Friday	7.6 hours	125% \$23.74/hr	\$180.42	125% \$23.74/hr	\$180.42
Saturday	7.6 hours	150% \$28.49/hr	\$216.52	150% \$28.49/hr	\$216.52
Sunday	7.6 hours	175% \$33.23	\$252.55	150% \$28.49/hr	\$216.52
Total gross weekly earnings:			\$1008.91		\$970.98

Day	Casual employee (Level 1)				
	Roster	Current penalty rate (including casual loading)	Current earnings	Proposed penalty rate	Proposed earnings
Dollar difference				\$37.93	
Percentage difference				3.76%	
Public holiday	7.6 hours	275% \$52.22/hr	\$396.87	175% \$33.23/hr	\$252.55
Dollar difference				\$44.32	
Percentage difference				36.36%	

Source: FWO (2015) *Pay Guide for the Fast Food Industry Award 2010*, July 2015

Table 9: Hospitality Industry (General) Award 2010: Permanent Level 1 employee, working 38 hours per week, including ordinary hours, one evening shift, and weekends

Day	Permanent employee (Level 1)				
	Roster	Current penalty rate	Current earnings	Proposed penalty rate	Proposed earnings
Wednesday	7.6 hours	100% \$17.79/hr	\$135.20	100% \$17.79/hr	\$135.20
Thursday (125%)	7.6 hours (4.6 hours ordinary time, 3 hours after 7pm)	110% \$19.80/hr	\$150.48	110% \$19.80/hr	\$150.48
Friday	7.6 hours	100% \$17.79/hr	\$135.20	100% \$17.79/hr	\$135.20
Saturday	7.6 hours	125% \$22.24/hr	\$169.02	125% \$22.24/hr	\$169.02
Sunday	7.6 hours	175% \$31.13/hr	\$236.59	150% \$26.68/hr	\$202.77
Total gross weekly earnings:			\$826.49		\$792.67
Dollar difference				\$33.82	
Percentage difference				4.09%	
Public holiday	7.6 hours	250% \$44.48/hr	\$338.05	225% \$40.03/hr 200% (additional holiday) \$35.58/hr	\$304.23 \$270.41
Dollar difference				\$33.82 \$67.64 (additional holiday)	
Percentage difference				10% 20% (additional holiday)	

Source: FWO (2015) *Pay Guide for the Hospitality Industry (General) Award 2010*, July 2015

Table 10: Hospitality Industry (General) Award 2010: Casual Level 1 employee, working 38 hours per week, including ordinary hours, one evening shift, and weekends

Day	Casual employee (Level 1)				
	Roster	Current penalty rate (including casual loading)	Current earnings	Proposed penalty rate	Proposed earnings
Wednesday	7.6 hours	125% \$22.24/hr	\$169.02	125% \$22.24/hr	\$169.02
Thursday	7.6 hours (4.6 hours ordinary time, 3 hours after 7pm)	135% \$24.02/hr	\$182.55	135% \$24.02/hr	\$182.55
Friday	7.6 hours	125% \$22.24/hr	\$169.02	125% \$22.24/hr	\$169.02
Saturday	7.6 hours	150% \$26.68/hr	\$202.77	150% \$26.68/hr	\$202.77
Sunday	7.6 hours	175% \$31.13/hr	\$236.59	150% \$26.68/hr	\$202.77
Total gross weekly earnings:			\$959.95		\$26.13
Dollar difference				\$33.82	
Percentage difference				3.52%	
Public holiday	7.6 hours	275% \$48.92/hr	\$371.79	175% \$31.13/hr 125% (additional holiday) \$22.24/hr	\$236.59 \$169.02
Dollar difference				\$135.20 \$202.77 (additional holiday)	
Percentage difference				36.36% 55% (add. holiday)	

Source: FWO (2015) *Pay Guide for the Hospitality Industry (General) Award 2010*, July 2015