



13 June 2018

The Honourable Justice Ross AO, President
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

By email: Chambers.Ross.j@fwc.gov.au; amod@fwc.gov.au

Dear Associate,

AM2016/15, AM2014/284 Restaurant Industry Award 2010 and AM2014/272 Hospitality Industry (General) Award 2010- Plain language Re-Drafting

We write in response to the Decisions¹ made 21 May 2018 in relation to the plain language redrafting of the *Restaurant Industry Award 2010* ('Restaurant Award') and the *Hospitality Industry (General) Award 2010* ('Hospitality Award'), in which interested parties were invited to file submissions in reply by Wednesday 13 June 2018.

References within this letter are to the relevant Exposure Drafts dated 22 May 2018, unless otherwise indicated.

Restaurant Award

Submission of Business SA dated 30 May 2018

We agree that for the purposes of clarity clause 10.13 should refer to clause 26.4 - Overtime rate, in addition to Table 5.

Hospitality Award

United Voice has reviewed clause 16 –Breaks, and in addition to the issues raised in our letter dated 30 May 2018, we note further concerns in relation to clause 16.5.

Current award clause 31.4 -Break not given states that '*For a shift of more than six hours, if the employer does not release an employee for an unpaid meal break the employee shall be paid at the rate of 50% of the ordinary hourly rate extra for each hour or part of an hour from six hours after the employee started work until the employer gives the employee the unpaid meal break, or until the shift ends.*'

Clause 16.5 states '*The rate the employer must pay the employee under clause 16.4 is: (a) the rate the employer was paying the employee at the end of the 6th hour of work on that*

¹ [2018] FWCFB 2559, [2018] FWCFB 2710

shift; and (b) 50% of the employee's ordinary hourly rate.'

Clause 16.5 is unclear, and will create confusion about the rate that should be paid. The wording in clause 16.5(a) is inaccurate in that the rate the employer was paying the employee at the end of the 6th hour of work on the shift may not be the rate the employee is entitled to in later hours of work.

The earlier wording in the Exposure Draft stated *'If an employee is not allowed to take an unpaid meal break in accordance with clause 16.2 during a shift of more than 6 hours, the employer must pay the employee at the rate of 150% of the employee's ordinary hourly rate from the end of 6 hours after starting work until either the employee is allowed to take it or the shift ends.'* This wording should be retained.

Submission of the AHA dated 30 May 2018

We agree that clause 10.12 could be clarified by removing one reference to *'the alteration to'* or *'as altered'*.

Our comments regarding clause 16.5 are as above.

Submission of Business SA dated 30 May 2018

Our comments regarding clause 16.5 are as above.

If you have any questions regarding this matter, please feel free to contact me.

Regards,

Natalie Dabarera
Industrial Officer
United Voice National Office
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