



HOUSING INDUSTRY ASSOCIATION



Housing Australians



Submission to the
Fair Work Commission

**4 yearly review of modern awards-
Payment of Wages (AM2016/8)**

13 May 2020



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ABOUT THE HOUSING INDUSTRY ASSOCIATION

The Housing Industry Association (HIA) is Australia's only national industry association representing the interests of the residential building industry, including new home builders, renovators, trade contractors, land developers, related building professionals, and suppliers and manufacturers of building products.

As the voice of the residential building industry, HIA represents a membership of 60,000 across Australia. HIA members are involved in land development, detached home building, home renovations, low & medium-density housing, high-rise apartment buildings and building product manufacturing.

HIA members comprise a diverse mix of companies including residential volume builders, small to medium builders and renovators, residential developers, trade contractors, building product manufacturers and suppliers and allied building professionals that support the industry.

HIA members construct over 85 per cent of the nation's new building stock.

The residential building industry is one of Australia's most dynamic, innovative and efficient service industries and is a key driver of the Australian economy. The residential building industry has a wide reach into manufacturing, supply, and retail sectors.

Contributing over \$100 billion per annum and accounting for 5.8 per cent of Gross Domestic Product, the residential building industry employs over one million people, representing tens of thousands of small businesses and over 200,000 sub-contractors reliant on the industry for their livelihood.

HIA exists to service the businesses it represents, lobby for the best possible business environment for the building industry and to encourage a responsible and quality driven, affordable residential building development industry. HIA's mission is to:

"promote policies and provide services which enhance our members' business practices, products and profitability, consistent with the highest standards of professional and commercial conduct."

HIA develops and advocates policy on behalf of members to further advance new home building and renovating, enabling members to provide affordable and appropriate housing to the growing Australian population. New policy is generated through a grassroots process that starts with local and regional committees before progressing to the National Policy Congress by which time it has passed through almost 1,000 sets of hands.

Policy development is supported by an ongoing process of collecting and analysing data, forecasting, and providing industry data and insights for members, the general public and on a contract basis.

The Association operates offices in 22 centres around the nation providing a wide range of advocacy, business support services and products for members, including legal, technical, planning, workplace health and safety and business compliance advice, along with training services, contracts and stationary, industry awards for excellence, and member only discounts on goods and services

1. INTRODUCTION

- 1.1.1 On 22 April 2020, the Fair Work Commission (**Commission**), issued Directions (**April 2020 Directions**), in the 4 yearly review of modern awards—Payment of wages (AM2016/8), in response to the HIA application (**HIA Application**) to vary Clause 31.3 of the *Building and Construction Award 2010* (**Onsite Award**).
- 1.1.2 HIA provides these submissions in accordance with the April 2020 Directions.
- 1.1.3 The HIA Application seeks to vary Clause 31.3 of the Onsite Award in the terms set out in the Draft Determination (**Draft Determination**) at **Attachment A**.
- 1.1.4 In summary, HIA seeks to vary the frequency of the payment of wages to provide for a fortnightly and if mutually agreed, a monthly payment cycle. Currently the provision only permits weekly wage payments. The proposed variation also ensures employers are not held accountable for circumstances outside of their control which may prevent wages from being available to the employee on the day it is due.
- 1.1.5 HIA submits that current Clause 31.3 of the Onsite Award is unnecessarily restrictive, and does not meet the Modern Award Objectives set out within section 134 of the *Fair Work Act 2009* (**FW Act**).

2. PROCEEDINGS

- 2.1.1 To date, proceedings relating to the HIA application have occurred within the 4 yearly Review of Modern Awards Construction Grouping of Awards (AM2016/23) (**Construction Group of Awards**), and the Payment of Wages (AM2016/8) common matters (**Payment of Wages Full Bench**).

2.2 CONSTRUCTION GROUP OF AWARDS

- 2.2.1 On 11 December 2014, the Commission issued a Statement finalising sub-groupings for Group 3 and 4 awards as part of the 4 Yearly Review of Modern Awards.¹ As per Attachment A to that Statement the Onsite Award was determined to be part of the Group 4 Awards, specifically Sub-Group 4E, Construction Group of Awards.
- 2.2.2 Within revised Directions dated 23 January 2015, specifically item (i) of paragraph 3 of those revised Directions parties were asked to '*identify the nature of any changes they intend to propose during the review of these awards*'.
- 2.2.3 In submissions dated 2 March 2015, HIA foreshadowed an intention to propose a variation to the frequency of payment of wages provision of the Onsite Award, Clause 31.3, on the basis that the current provision does not meet the Modern Awards Objectives.
- 2.2.4 A further Statement, of 24 February 2016² directed that a conference be convened to categorise the various issues raised, seek to resolve matters in dispute, and identify those matters that may require referral to a separately constituted Full Bench.
- 2.2.5 By way of Directions issued on 26 February 2016 and Statement dated 1 April 2016³ a series of conferences commenced, the outcomes of which are captured in His Honour SDP Watsons Report to Full Bench dated 5 August 2016 (**Report to the Full Bench**).
- 2.2.6 The Report to the Full Bench, identified the HIA Application within a broad group of payment of wages claims, including those before the Payment of Wages Full Bench.

¹ [2014] FWC 8985

² [2016] FWC 1191 at paragraph 13

³ [2016] FWC 1972



- 2.2.7 By way of Memorandum, on 22 August 2016 the President, His Honour Justice Ross constituted a Full Bench to hear and determine matters relating to the Construction Group of Awards. The HIA Application was not included in the list of substantive matters to be determined.
- 2.2.8 On 26 October 2016, the Commission issued Directions in relation to the Construction Awards requiring the filing of comprehensive written submissions and any witness statements or documentary material on which a party seeks to rely by Friday 2 December 2016.
- 2.2.9 In accordance with those Directions, HIA filed submissions dated 2 December 2016 (**December 2016 Submission**), which included the variation to Clause 31.3 of the Onsite Award⁴ currently the subject of these proceedings.

2.3 PAYMENT OF WAGES FULL BENCH

- 2.3.1 At the time HIA submitted the December 2016 Submission, the Payment of Wages Full Bench issued a Decision on 1 December 2016⁵ identifying that broader issues existed in numerous modern awards with respect to payment of wages.
- 2.3.2 Within this Decision the Payment of Wages Full Bench proposed a provisional payment of wages model term (**payment of wages model terms**) for further consideration. The Onsite Award was identified amongst the modern awards requiring further consideration as to the suitability of a model term or an award based adjustment.⁶
- 2.3.3 Collectively the payment of wages model terms sought to address three key areas, the timing of payment of wages, the timing of payment on termination of employment, and the accrual of wages and other amounts.⁷
- 2.3.4 The provisional model payment of wages and other amounts term (**provisional model payment of wages and other amounts term**), determined by the Payment of Wages Full Bench, is as follows:

X. Payment of wages and other amounts

x.1 Pay periods and pay days

- (a) *The employer must pay each employee no later than 7 days after the end of each pay period:*
- (i) *the employee's wages for the pay period; and*
 - (ii) *all other amounts that are due to the employee under this award and the NES for the pay period.*
- (b) *An employee's pay period may be:*
- (i) *one week;*
 - (ii) *two weeks; or*
 - (iii) *subject to paragraph (e), one month.*
- (c) *The employer must notify each employee in writing of their pay day and pay period.*
- (d) *Subject to paragraph (e), the employer may change an employee's pay day or pay period after giving 4 weeks' notice in writing to the employee.*
- (e) *An employer may only change from a one week or two week pay period to a one month pay period by agreement with affected employees. If employees in a particular classification were paid monthly prior to [insert date of commencement of this clause], the employer may continue to pay employees in that classification monthly without further agreement.*

⁴ Item 7, [HIA Submission AM2016/23](#)

⁵ [2016] FWCFB 8463

⁶ [2016] FWCFB 8463, paragraphs 17 and 22

⁷[2017] FWCFB 2290



- (f) *Where an employee's pay period is one month, two weeks must be paid in advance and two weeks in arrears.*

x.2 Method of payment

Under clause x.1(a) must be made by electronic funds transfer to the account at a bank or financial institution nominated by the employee, or by cash or cheque.

2.3.5 Since the issuing of the provisional term, further submissions were sought in relation to the finalisation and determination of the term. HIA provided submissions on 16 December 2016 (**16 December 2016 Submission**), and reply submissions on 2 February 2017 (**February 2017 Submission**), which confirmed continued reliance on the December 2016 Submissions.

2.3.6 Following submissions, several mentions were held to determine process and agreed principles of the model terms, and a further hearing was held before the Payment of Wages Full Bench on 23 March 2017 (**March 2017 Hearing**).

2.3.7 At the March 2017 Hearing His Honour Justice Ross, noted that there appeared to be a measure of agreement between the parties about some important matters of principle for the payment of wages model terms, and highlighted the degree of complexity in the matter:

'It's apparent from the submissions that there is a greater degree of complexity to these issues than perhaps originally anticipated, and we think that that reinforces the need for this to be a more iterative process.

*That's perhaps a more complicated way of saying that we don't intend to launch off and make a decision arising from today's proceedings about what model terms might be and whether they go in all awards or not. We think there is a need for some further interaction with the parties about how we proceed in respect of all of these issues.'*⁸

2.3.8 Subsequently the Commission issued a statement on 26 April 2017 (**April 2017 Statement**), identifying the areas of agreement.

2.3.9 As it related to the provisional model payment of wages and other amounts term, the April 2017 Statement highlighted that there appeared to be general agreement that the model term (**Agreed Model Term Principles**) should specify:

- i. the duration of pay periods;
- ii. the time between the end of a pay period and when payment is due;
- iii. payment methods, and
- iv. deal with the public holiday/weekend issue.

2.3.10 On the 17 July 2018 the Payment of Wages Full Bench Decision (**July 2018 Decision**) finalised the payments on termination model term.⁹ The July 2018 Decision, again reinforced the need for the process for adopting this term into modern awards, to be an iterative one.¹⁰

2.3.11 Throughout the course of proceedings and following the July 2018 Decision, the HIA Application has remained before the Payment of Wages Full Bench.

2.3.12 On the 13 March 2020, a Report¹¹ issued by the Commission provided the following Directions regarding the HIA application:

'I agree that some clarity is required as to the process for determining the claim. HIA is directed to confer with the other parties with an interest in the On-Site Award with a view to reaching an agreed position on the way forward. Draft directions are to be filed by 4pm Friday 20 March 2020. In the event that the parties are unable to agree and there is a dispute about the form of the directions, the nature of such a dispute should be identified and I will then issue final directions.'

2.3.13 Subsequently, the April 2020 Directions were issued, which looked to finalise the HIA Application.

⁸ Transcript of proceedings, paragraphs 26-27

⁹ [2018] FWCFB 3566

¹⁰ Paragraph 7

¹¹AM2016/8, Report, 13 March 2020 at paragraph 25



3. HIA APPLICATION

- 3.1.1 The April 2020 Directions contain the following note:
*'Note: All parties must file new submissions in accordance with the above directions (parties may refer to previous submissions and rely on them, but absent a submission in accordance with these directions we will **not** be having regarding to any previous submissions).'*
- 3.1.2 HIA continues to rely upon submissions provided throughout these proceedings, including the:
- i. December 2016 Submission, and corresponding Draft Determination;
 - ii. 16 December 2016 Submission; and
 - iii. February 2017 Submission.
- 3.1.3 For ease of reference, within this submission HIA has replicated the substantive and relevant parts of these previous submissions, as updated to reflect proceedings to date.

3.2 PROPOSED VARIATION

- 3.2.1 The HIA Application as per the Draft Determination at Attachment A, proposes to vary the frequency of payment of wages provision of the Onsite Award, Clause 31.3, which currently provides:

Payments must be paid and available to the employee not later than the end of ordinary hours of work on Thursday of each working week. Where an employer made payment less frequently in compliance with a relevant award or award-based transitional instrument, prior to the making of this award on 1 January 2010, or where an employer made payment less frequently in compliance with a Division 2B State award, prior to 1 January 2011, the employer may continue to make payment at that frequency, subject to the agreement of employees and/or a majority of employees if required by the relevant award, award-based transitional instrument or Division 2B State award.

- 3.2.2 The HIA Application seeks to vary the Onsite Award to provide for a fortnightly and if mutually agreed, a monthly payment cycle. The proposed variation also ensures employers are not held accountable for circumstances outside of their control which may prevent wages from being available to the employee on the day it is due.
- 3.2.3 Of note these aspects of the HIA Application are also addressed by the provisional model payment of wages and other amounts term.

3.3 PROVISIONAL MODEL TERM

- 3.3.1 As highlighted within the 16 December 2016 submission, HIA is generally supportive of the following concepts and wording proposed in the Commissions provisional model payment of wages and other amounts term:
- i. Clarifying that the payment of wages and 'all other amounts' is required within 7 days after the end of the pay period.
 - ii. Providing flexibility in relation to the determination of pay cycles and enabling weekly, fortnightly or monthly (by agreement) pay cycles;
 - iii. Distinguishing between a 'pay period' and a 'pay day'. In HIA's view this approach conforms with modern work practices and addresses the lack of clarity in relation to this issue which has been raised by HIA members; and
 - iv. That, in HIA's view it is appropriate to obtain agreement with employees where an employer wishes to implement a monthly pay cycle.
- 3.3.2 The Agreed Model Term Principles reinforces the importance of the need for a frequency of payment of wages term to include detail on '*the duration of pay periods*'; and clarify '*the time between the end of a pay period and when payment is due*.'



3.3.3 To this end, HIA is open to considering aspects of the provisional model payment of wages and other amounts term being added to the Draft Determination provided by HIA.

4. LEGISLATIVE FRAMEWORK

4.1.1 The HIA Application has been made and will be determined in the context of the 4 Yearly Review into Modern Awards, as set out within section 156 of the FW Act (repealed by the *Fair Work Amendment (Repeal of 4 Yearly Reviews and Other Measures) Act 2018*).

4.1.2 The scope of the 4 Yearly Review was initially outlined in the decision of the Full Bench of the Commission of 17 March 2014¹² and those principles were subsequently summarised by the Full Bench in the *4 Yearly Review of Modern Awards – Annual Leave*¹³ as follows:

‘The modern awards objective is directed at ensuring that modern awards, together with the NES, provide a ‘fair and relevant minimum safety net of terms and conditions’ taking into account the particular considerations identified in paragraphs 134(1)(a) to (h) (the s.134 considerations). The objective is very broadly expressed. No particular primacy is attached to any of the s.134 considerations and not all of the matters identified will necessarily be relevant in the context of a particular proposal to vary a modern award.

The obligation to take into account the s.134 considerations means that each of these matters, insofar as they are relevant, must be treated as a matter of significance in the decision making process.

*While the Commission must take into account the s.134 considerations, the relevant question is whether the modern award, together with the NES, provides a fair and relevant minimum safety net of terms and conditions. Further, it is not necessary to make a finding that the modern award under review has failed to satisfy at least one of the s.134(1) considerations. As the Full Federal Court said in *National Retail Association v Fair Work Commission*:*

‘It is apparent from the terms of s.134(1) that the factors listed in (a)–(h) are broad considerations which the FWC must take into account in considering whether a modern award meets the objective set by s.134(1), that is to say, whether it provides a fair and relevant minimum safety net of terms and conditions. The listed factors do not, in themselves, pose any questions or set any standard against which a modern award could be evaluated. Many of them are broad social objectives. What, for example, was the finding called for in relation to the first factor (‘relative living standards and the needs of the low paid’)? Furthermore, it was common ground that some of the factors were inapplicable to the SDA’s claim?’

There is a degree of tension between some of the s.134 considerations. The Commission’s task is to balance the various considerations and ensure that modern awards provide a fair and relevant minimum safety net of terms and conditions.

Section 138 of the FW Act is also relevant, it emphasises the importance of the modern awards objective in these terms:

‘A modern award may include terms that it is permitted to include, and must include terms that it is required to include, only to the extent necessary to achieve the modern awards objective and (to the extent applicable) the minimum wages objective.’

¹² [2014] FWCFB 1788
¹³ [2016] FWCFB 3177 at paragraphs 19-25



Section 138 provides that terms only be included in a modern award 'to the extent necessary to achieve the modern awards objective'. To comply with s.138 the terms included in modern awards must be 'necessary to achieve the modern awards objective'.

What is 'necessary' in a particular case is a value judgment taking into account the s.134 considerations, to the extent that they are relevant having regard to the submissions and evidence directed to those considerations.'

4.2 MODERN AWARD OBJECTIVES

4.2.1 Relevantly, section 134 of the FW Act provides for the Modern Award Objectives (**Modern Award Objectives**):

- (1) *The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:*
 - a) *relative living standards and the needs of the low paid; and*
 - b) *the need to encourage collective bargaining; and*
 - c) *the need to promote social inclusion through increased workforce participation; and*
 - d) *the need to promote flexible modern work practices and the efficient and productive performance of work; and*
 - (da) *the need to provide additional remuneration for:*
 - (i) *employees working overtime; or*
 - (ii) *employees working unsocial, irregular or unpredictable hours; or*
 - (iii) *employees working on weekends or public holidays; or*
 - (iv) *employees working shifts; and*
 - e) *the principle of equal remuneration for work of equal or comparable value; and*
 - f) *the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and*
 - g) *the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and*
 - h) *the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.*

4.2.2 The framework established by the Modern Awards Objectives requires that the Modern Awards be considered with the current industry circumstances in mind as opposed to economic and social conditions that existed in the past.

4.2.3 Notwithstanding that the Full Bench may have regard 'to the historical context applicable to each modern award and will take into account previous decisions relevant to any contested issue'¹⁴, the Full Bench also observed that '(T)he particular context in which those decisions were made will also need to be considered.'¹⁵ This is particularly relevant for the Onsite Award, an instrument that is largely the result of

¹⁴ [2014] FWCFB 1788 at paragraph 60

¹⁵ Ibid at paragraph 60



a history peppered with disputes and conflict leading to the adoption of many consent positions in order to quell industrial unrest since at least the 1960's.

- 4.2.4 In more recent times, the process of award modernisation simply consolidated a variety of pre-modern state and federal based instruments into one modern award. It is HIAs submission that the content of these modern awards were not updated to fit or reflect contemporary needs or circumstances.
- 4.2.5 This was highlighted by Watson VP in his Minority decision in the Annual Leave Case conducted as part of the transitional review of Modern Awards (**2012 Modern Award Review**):

'As a result of the award modernisation process, approximately 1560 federal and state awards were reviewed over a period of about 18 months and replaced by 122 modern awards. A further 199 applications to vary modern awards were made during this period. It is clear from any review of the process that the objects of rationalising the number of awards and attempting to balance the seemingly inconsistent objects of not disadvantaging employees and not leading to increased costs for employers attracted the vast majority of attention from the parties and the AIRC. It was clearly not practical during the award modernisation process to conduct a comprehensive review of the industrial merit of the terms of the awards. Matters that were not put in issue by the parties were not subject to a merit determination in the conventional sense. Rather, terms were adopted from predecessor awards that minimised adverse changes to employees and employers. As the Full Bench explained on a number of occasions, the general approach was as follows:

"[3] In general terms we have considered the applications in line with our general approach in establishing the terms of modern awards. We have had particular regard to the terms of existing instruments. Where there is significant disparity in those terms and conditions we have attached weight to the critical mass of provisions and terms which are clearly supported by arbitrated decisions and industrial merit. We have considered the impact of the provisions based on the information provided by the parties as to current practices."

*It is important to note the limited nature of the task undertaken by the award modernisation Full Bench.*¹⁶

- 4.2.6 Notwithstanding the difficult task faced by the AIRC and the inevitable limitations in a forensic examination of all award conditions in 2008, award modernisation changed the role of awards - no longer are these instruments a result of a dispute settlement process but will evolve through a formal legislated process of 'reviews'¹⁷ and 'variation applications'¹⁸ presided over by the Commission.
- 4.2.7 The Commission has observed that these instruments are now regulatory instruments:

*'...the role of modern awards and the nature of the Review are quite different from the arbitral functions performed by the AIRC (and other predecessor tribunals) in the past. The Review is essentially a regulatory function. In the Review context, the Commission is not creating an arbitral award in settlement of an inter parties industrial dispute – it is reviewing a regulatory instrument.'*¹⁹

- 4.2.8 Based on the evolution of the regulatory framework and the task of the Commission during this 4 Yearly Review HIA sees this as a real opportunity to carry out a forensic examination of the Onsite Award, now

¹⁶ [2013] FWCFB 6266 at [198] – [199].

¹⁷ s136 of the Act.

¹⁸ Section 157 and 160 of the Act.

¹⁹ [2015] FWCFB 4466 at paragraph 253



a regulatory instrument, to ensure it meets the Modern Awards Objective, which HIA submits it currently does not, the Onsite Award was never 'modernised' and is most certainly a relic of the past.

5. AWARD HISTORY

- 5.1.1 The history of the Onsite Award is relevant in the context of HIAs application to vary Clause 31.3.
- 5.1.2 HIA submits that the issue of the frequency of payment of wages has in the history of the Onsite Award been largely an uncontested issue, and one which has been arrived at by way of consent positions.
- 5.1.3 For example, the award simplification decisions in the *National Building and Construction Industry Award 1990* generally dealt only with contested matters. The Commission did make the following comment with respect to the payment of wages clause:
- 'Clause 20.7 which deals with the particulars for the payment to each employee when wages are paid was argued by some parties as being unnecessary as it is already covered by Regulation 132B of the WR Act. The CFMEU and the MBA argue for its retention on the basis that the award does have some differences from the Regulation and the parties produced a clause which encompasses both. The Commission notes that in the Hospitality decision the Full Bench agreed to the employers' submissions that such a clause should be deleted. In this matter the major Employers did not make such submissions and therefore the Commission believes the particular subclause is necessary and incidental to an allowable matter, that is payment of wages.'*
- 5.1.4 The decision of *Simpson Personne*²⁰ did deal with the specific matter under consideration in this 4 Yearly Review.
- 5.1.5 In that case the applicant applied to vary Clause 31 of the Onsite Award to include a provision for payment of wages on a weekly or fortnightly basis by mutual agreement.
- 5.1.6 While Watson SDP rejected the application he did so on very narrow grounds. Notably His Honour had regard to the 26 June 2009 comment of the Full Bench of the AIRC that:
- 'Applications to vary the substantive terms of modern awards will be considered on their merits. It should be noted, however, that the Commission would be unlikely to alter substantive award terms so recently made after a comprehensive review of the relevant facts and circumstances including award and NAPSA provisions applying across the Commonwealth. Normally a significant change in circumstances would be required before the Commission would embark on a reconsideration.'*²¹
- 5.1.7 Watson SDP went on to state at paragraph 49 that:
- '...The comments of the 26 June 2009 Full Bench in relation to applications to vary modern awards, soon after their making, militate against the making of a determination varying the 2010 Modern Award outside the system of 4 yearly reviews of modern awards.'*
- 5.1.8 However, his Honour did vary the Onsite Award to take into account a variety of frequency of payment provisions that existed in pre-modern awards:
- 'A consideration of the content of pre-modern award instruments confirms that the terms of clause 31 reflect the predominant existing payment of wages provisions. However, it is clear that some pre-modern award instruments do not contain a requirement for weekly payment and others permit departure from weekly payment by agreement. For employers previously subject to these provisions, a requirement for weekly payment would conflict with the modern awards objective in relation to employment costs and regulatory burden in circumstances where relevant employees would suffer if prevented by the 2010 Modern Award from continuing current arrangements.'*²²
- 5.1.9 Paragraphs 40-44 of that decision outline the frequency of payment arrangements across a range of construction industry pre-reform awards. Attached to these submissions and marked **Attachment B** is a

²⁰ [2010] FWA 2894

²¹ [2010] FWA 2894 at paragraph 29

²² Ibid at paragraph 45



list of those pre-reform awards that provided a range of frequency of payment options and the relevant provisions.

5.1.10 The decision also captured the consideration of the provision during award modernisation:

*'In the award modernisation proceedings, the CFMEU's initial draft award contained the clause taken from the NBCIA, with The Australian Workers' Union draft being filed in almost identical terms. During the whole of the award modernisation proceedings relating to the 2010 Modern Award, no party made any submissions in support of fortnightly pay. It [CFMEU] submitted that the CFMEU was the only party to mention the payment of wages clause during the pre-exposure draft consultations for the 2010 Modern Award. When the Full Bench released the exposure draft on 23 January 2009, the payment of wages clause only provided for weekly payment. Following its release, the only written submission to mention fortnightly pay was that of the HIA, but that was only by way of inclusion in their proposal for fortnightly pay with one week in arrears and one week in advance. The CFMEU was the only party to make any oral submissions on the payment of wages clause for the proposed 2010 Modern Award during the post-exposure draft stage.'*²³

5.1.11 The Bench concluding that:

*'The CFMEU contentions as to the circumstances of the making of the 2010 Modern Award were not challenged, save to the extent that the MBA submitted that in its 10 February 2009 submission and more generally during the Stage 2 process, it labelled clause 31 as unduly prescriptive and the HIA submitted that submissions from the employer parties, during the Stage 2 process, reflected an underlying opposition to inflexible prescriptive provisions.'*²⁴

5.1.12 During the 2012 Modern Award Review HIA applied to vary the Onsite Award on the same terms as that which is sought before the current Full Bench. It was determined that HIA's variation be heard by the *Modern Award Review 2012 – Award Flexibility*²⁵ Full Bench (**2012 Award Flexibility Decision**). At that time HIA also sought the vary Clause 7.1 of the Onsite Award, the Award Flexibility term, to add an additional item (h) *'any other matter within the award'*.

5.1.13 In rejecting HIA's 2012 application at paragraphs 146 and 147 the Full Bench determined that:

'Issues in respect of frequency of payment have generally been dealt with on an award by award basis...

*In our view the issue of frequency of payment is best dealt with on an award by award basis in the context of either the Transitional Review or the 4 yearly review of modern awards. The relevant award history and the circumstances pertaining to each award are likely to vary and should be dealt with on a case by case basis. The inclusion of such a term within the scope of the model flexibility term would not be consistent with the modern awards objective.'*²⁶

5.1.14 HIA submit that the opportunity to deal with this matter has clearly been provided for by a Full Bench of the Commission.

6. MODERN AWARD OBJECTIVES

6.1.1 It is HIAs submission that the current Clause 31.3 of the Onsite Award, does not meet the Modern Award Objectives.

6.1.2 The Onsite Award was specifically identified²⁷ as a modern award requiring further consideration in the context of the frequency of payment of wages:

'... The modern awards objective includes 'the need to ensure a simple, easy to understand, stable and sustainable modern award system'. Providing clarity to employees about when and for what period they will be paid and providing clarity to employers as to their obligations to make such payments, is consistent with this objective.

²³ Ibid at paragraph 22

²⁴ Ibid at paragraph 37

²⁵ [2013] FWCFB 2170

²⁶ [2013] FWCFB 2170

²⁷ [2016] FWCFB 8463, paragraphs 17 and 22



*Our provisional view is that there would be benefit in either replacing the existing provision for payment in all modern awards with the model term (once finalised), or alternatively with a version of the model term appropriately adapted to the existing award payment arrangements.*²⁸

- 6.1.2 It is clear from commentary before the Payment of Wages Full Bench, that the frequency of payment of wages provisions of the Onsite Award warrant further consideration.
- 6.1.3 Further, the identified Agreed Model Term Principles which underpin the provisional model payment of wages and other amounts term, are at odds with current Clause 31.3 of the Onsite Award.
- 6.1.4 HIA submit the following Modern Award Objectives considerations are relevant for the purposes of determining the HIA application.

6.2 THE NEED TO PROMOTE FLEXIBLE MODERN WORK PRACTICES AND THE EFFICIENT AND PRODUCTIVE PERFORMANCE OF WORK

- 6.2.1 HIA submit that current section 31.3 of the Onsite Award provides for an unjustifiable continued restriction on the ability of an employer to manage its pay cycle, detracting from the need to promote flexible modern work practices and the efficient and productive performance of work.
- 6.2.2 The provision is at odds with Section 323 (1) of the FW Act, which provides that:
 - An employer must pay an employee amounts payable to the employee in relation to the performance of work:*
 - (a) in full (except as provided by section 324); and*
 - (b) in money by one, or a combination, of the methods referred to in subsection (2)*
 - and*
 - (c) at least monthly.*
- 6.2.3 While it is clear that a modern award may provide for more frequent payment the legislative provision is relevant to the extent the Parliament has expressed a view about the expectations in relation to the frequency of the payment of wages.
- 6.2.4 Also particularly relevant is that during the 2012 Modern Award Review, Senior Deputy President Hamberger varied the frequency of payment provision in the *Graphic Arts, Printing and Publishing Award 2010*.
- 6.2.5 At paragraphs 25 and 26 of this decision the Senior Deputy President said:
 - 'There are very few modern awards that require wages to be paid weekly. The great majority of awards, including those which cover a greater number of low paid employees than this award, allow at least for fortnightly pay. The manufacturing award, which covers very similar employees to those covered by the Award, provides for wages to be paid weekly or fortnightly. Where there is agreement between the employer and the majority of employees in the relevant enterprise, or with an individual employee, wages may be paid three weekly, four weekly or monthly. I am satisfied that it is anomalous and unduly prescriptive for the Award to require that wages must be paid weekly. Varying the Award to bring it broadly into line with the manufacturing award will ensure that the Award meets the modern award objectives.*
 - In particular it is consistent with the need to promote flexible modern work practices. Accordingly, Clause 28.1 will be deleted and replaced with a new clause:*
 - 'Wages must be paid weekly or fortnightly as determined by the employer. Wages may be paid four weekly or monthly if agreed with an individual employee.'*²⁹
- 6.2.6 HIA strongly submit that the Commission follow the decision of Hamberger SDP in order to ensure that the Onsite Award meets the Modern Awards Objectives.

²⁸ Ibid paragraphs 46 and 47
²⁹ [2012] FWA 8726



6.3 THE IMPACT OF THE EXERCISE OF MODERN AWARD POWERS ON BUSINESS, INCLUDING ON PRODUCTIVITY, EMPLOYMENT COSTS AND THE REGULATORY BURDEN

- 6.3.1 HIA submits that the current provision has a negative impact on productivity, employment costs and unnecessarily adds to the regulatory burden for employers.
- 6.3.2 The administration of payroll obligations in the construction industry is a time consuming and cumbersome process. Not only do the hours worked by an employee need to be taken into account, but the existence of the various travel, onsite and occupational allowances means that the nature of the work undertaken needs to be considered as well.
- 6.3.3 Many large and medium employers in the building industry would ordinarily employ or engage the services of a payroll administrator or administrators to facilitate the payment of wages and calculation of pay entitlements. Some smaller businesses may outsource this function by engaging the services of an external bookkeeper or payroll company, but often the exercise is performed internally.
- 6.3.4 Regardless of whether or not specialised payroll staff are engaged or contracted, the costs (both direct and indirect) are borne by employers to ensure compliance and to meet an administrative obligation. There are no direct productivity gains for the business of the employer.
- 6.3.5 In the matter of *Simpson Personnel*, when considering this Modern Awards Objective, Watson SDP stated that:

*'I am, however, satisfied that the payment of wages and the frequency thereof will impact upon employment costs and the regulatory burden, a consideration required by s.134(1)(f) of the Act. A greater frequency of payment will increase administrative costs of employing labour and impose a greater regulatory burden, which should be avoided, particularly in circumstances where employees have been subject to less frequent payment under previously applicable award-based transitional instruments.'*³⁰

- 6.3.6 Attached at **Attachment C** to these submissions is the Statement of Kristen Lewis which includes at Annexure D a copy of the results of a HIA Member Survey (**HIA Member Survey**).
- 6.3.7 Comments from the HIA Member Survey, indicates the impact on business who should be paying weekly but are not:³¹

- *"I have the book keeper come in fortnightly so if we paid weekly that would impact negatively on our business and our book keep"*
- *"A bit more paperwork – but that's about all. It's difficult enough to get the boys to submit their time sheet on time fortnightly – weekly sounds like a nightmare"*
- *"Another cost to the small business which we cannot re-coup"*
- *"Increased administrative costs and cash flow difficulties"*
- *"Increase in unnecessary administrative time"*
- *"Increased administrative cost"*

³⁰ [2010] FWA 2894

³¹ HIA Member Survey at pgs 38-39



- *“Cost me more I would have to pay the bookkeeper to come in each week to do the pay”*
- *“Yes would mean an extra pay cycle and increased admin charge”*
- *“This would be double the amount of time required to do pay runs and the payment officer would have to work every week instead of every second week. It would be more time and cost more money. We also have people on different awards, so it would have to change for all of them. That would be very inconvenient.”*

6.4 THE NEED TO ENSURE A SIMPLE, EASY TO UNDERSTAND, STABLE AND SUSTAINABLE MODERN AWARDS SYSTEM

- 6.4.1 About half of those who responded to the HIA Member Survey were aware that the Onsite Award required the weekly payment of wages.³²
- 6.4.2 The current provision is not only cumbersome and recognises that pre-reform awards provided options for alternative payment arrangements, it also is at odds with the need to ensure Modern Awards are simple, easy to understand and stable.
- 6.4.3 Whilst the recognition of variable payment cycle circumstances across the various pre-modern awards in the decision in Simpson Personnel was welcomed by HIA, the Onsite Award now contains a provision which references award based transitional instruments and Division 2B awards, this sits uncomfortably with the notion of ensuring a simple, easy to understand stable Modern Award system and the activities of the Commission to adopt plain language drafting, which would likely frown on the drafting of the current provision.

³² HIA Member Survey at pg.37



ATTACHMENT A

MA000020 PRxxxxxx



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards—Construction Awards

(AM2016/23)

BUILDING AND CONSTRUCTION GENERAL ON-SITE AWARD 2010

[MA000020]

Building, metal and civil construction industries

VICE PRESIDENT HATCHER
DEPUTY PRESIDENT HAMILTON
DEPUTY PRESIDENT GOSTENCNIK
COMMISSION GREGORY
COMMISSIONER HARPER-GREENWELL

[XXX 2017]

4 yearly review of modern awards –Construction Awards.

A. Further to the decision issued by the Fair Work Commission on [INSERT], the above award is varied as follows:

1. Delete current clauses 31.3
2. Insert new clause 31.3

Payments must be paid and, to the extent of the employer's control, be made available to the employee not later than the end of ordinary hours of work on Thursday of each working week or fortnight as determined by the employer, or monthly if mutually agreed.

B. This determination comes into operation from [xxx]. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after [xxx].

PRESIDENT



ATTACHMENT B

Pre-Modern Award Payment Cycles

Pre-Modern Award	Clause
<i>Building and Construction Industry (Northern Territory) Award 2002 - AP812941</i>	5.7.1 Wages shall be paid weekly unless otherwise mutually agreed between the employee and the employer.
<i>Roof Slaters and Tilers (Victoria) Award 2002 - AT818507</i>	<p>17.1 All wages, allowances and other monies may be paid weekly or fortnightly by cheque or direct funds transfer to an employee's bank account (subject to the provisions of the Workplace Relations Act).</p> <p>17.2 Where direct funds transfer is used payment details, in full, are to be received no later than Friday of the pay week. In all other methods, payment is to be made no later than the time of cessation of work on the Thursday of each pay week.</p>
<i>South Australian Civil Contracting Industry Award 1999 - AP798273</i>	5.6.2(a) Wages shall be paid on Thursday of each week, except by agreement between the employer and the majority of employees affected, it may be paid fortnightly (but, in such a case, payment shall be by EFT or cash only). If by majority agreement, new employees shall be paid on the same basis as current employees working at the same job location.
<i>Civil Construction, Operations and Maintenance General Award - State 2003 SA - AN140061</i>	5.7.1 Subject to clause 5.7.2, all employees shall be paid at least once in every fortnight, and where reasonably practicable, in the employer's time and at the office of the employer or on the job as may be mutually arranged. Not more than 4 days pay shall be kept in hand in the case of fortnightly payment otherwise not more than 2 days pay shall be kept in hand.
<i>Building Trades Award 1968 WA - AN160037</i>	<p>11.1 (a) Actual 38 ordinary hours- In the case of an employee whose ordinary hours of work are arranged so that he works 38 ordinary hours each week, wages shall be paid weekly according to the actual ordinary hours worked each week.</p> <p>(b) Average of 38 ordinary hours - In the case of an employee whose ordinary hours of work are arranged so that he works an average of 38 ordinary hours each week during a particular four week cycle, wages shall be paid weekly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the four week cycle.</p>
<i>Australian Workers' Union Construction and Maintenance Award 2002 - AP815828</i>	22.2.1 Employees shall be paid their wages in working hours.



	<p>22.2.2 Wages shall be paid during ordinary working hours of work on Thursday of each week.</p> <p>22.2.5 Nothing shall prevent any alternative mutual arrangement between an employer and an employee.</p>
<i>AWU/CFMEU Construction and Maintenance Award (South Australia) 1989 - AN150011</i>	<p>33 (a) Employees shall be paid their wages in cash, or where agreement is reached between the employer and the employee, payment of wages may be made by cheque or electronic funds transfer. Wages shall be paid during ordinary working hours of work on Thursday of each week. Nothing shall prevent any alternative mutual arrangement between an employer and an employee.</p>
<i>Roof Slaters and Tilers (Victoria) Award 2002 – AT818507</i>	<p>17.1 All wages, allowances and other monies may be paid weekly or fortnightly by cheque or direct funds transfer to an employee's bank account (subject to the provisions of the Workplace Relations Act).</p> <p>17.2 Where direct funds transfer is used payment details, in full, are to be received no later than Friday of the pay week. In all other methods, payment is to be made no later than the time of cessation of work on the Thursday of each pay week.</p> <p>17.3 Wages may be paid fortnightly by agreement between the employer and an employee. Failure to reach agreement shall be dealt with in accordance with clause 10 - Disputes Resolution Procedure.</p>
<i>National Metal and Engineering On-Site Construction Industry Award - AT816828</i>	<p><u>PLEASE NOTE: There is no provision in this Award that specifically refers to the frequency of wage payments. However, the following clauses may be relevant:</u></p> <p>17.1 Employees wages shall be paid during ordinary working hours.</p> <p>17.3.1 Where an employer and employee agree, the employee may be paid his/her wages by cheque or direct transfer into the employee's bank (or other recognised financial institution) account. Notwithstanding this provision, if the employer and the majority of employees agree, all employees may be paid their wages by cheque or direct transfer into an employee's</p>



	<p>bank (or other recognised financial institution) account, provided that in the case of employees paid by cheque, the employer shall, on pay day, if it is required by the employee, have a facility available during ordinary hours for the "encashment" of the cheque.</p>
<p><i>Australian Workers' Union Construction and Maintenance Award 2002 – AT815828</i></p>	<p>22.1 Employees shall be paid their wages in cash, or where agreement is reached between the employer and the employee, payment of wages may be made by cheque or electronic funds transfer.</p> <p>22.2.2 Wages shall be paid during ordinary working hours of work on Thursday of each week.</p> <p>22.2.5 Nothing shall prevent any alternative mutual arrangement between an employer and an employee.</p>
<p><i>National Building and Construction Industry Award 2000 – AT790741</i></p>	<p>23.1 All wages, allowances and other monies shall be paid in cash, or by cheque, bank cheque, electronic funds transfer or similar transfer or any combination thereof, if there is agreement in writing between the employer, the employee and, where the employee is a member of the union and request the consent of the union, with the union.</p> <p>23.2.3 Payments shall be paid and available to the employee not later than the cessation of ordinary hours of work on Thursday of each working week.</p>
<p><i>UCIW Christmas Island Building and Construction Award 2004 – AP834773</i></p>	<p>17.1 All wages, allowance and other monies shall be paid in cash or by cheque, bank cheque, electronic funds transfer (EFT) or similar transfer.</p> <p>17.2.3 Payment shall be made available to the employee not later than the cessation of ordinary hours of work on Thursday of each working week.</p>
<p><i>Roof Slaters and Tilers (Victoria) Award 2002 – AP818507</i></p>	<p>17.1 All wages, allowances and other monies may be paid weekly or fortnightly by cheque or direct funds transfer to an employee's bank account (subject to the provisions of the Workplace Relations Act).</p> <p>17.2 Where direct funds transfer is used payment details, in full, are to be received no later than Friday of the pay week. In all other methods, payment is to be made no later than</p>



	<p>the time of cessation of work on the Thursday of each pay week.</p> <p>17.3 Wages may be paid fortnightly by agreement between the employer and an employee. Failure to reach agreement shall be dealt with in accordance with clause 10 - Disputes Resolution Procedure.</p>
<i>National Building and Construction Industry Award 2000 – AP790741</i>	<p>23.1 All wages, allowances and other monies shall be paid in case, or by cheque, bank cheque, electronic funds transfer or similar transfer or any combination thereof, if there is agreement in writing between the employer, the employee and, where the employee is a member of the union and request the consent of the union, with the union.</p> <p>23.2.3 Payments shall be paid and available to the employee not later than the cessation of ordinary hours of work on Thursday of each working week.</p>
<i>Engine Drivers and Firemens (ACT) Award – AP805250</i>	<p>20.1.1 Employees shall be paid by the employer weekly during working hours not later in the week than Friday, provided that where the employees are at present paid fortnightly such practice may continue</p>
<i>Construction Industry Sector – Minimum Wage Order – Victoria 1997 – AP774313</i>	<p><u>PLEASE NOTE: There is no provision in this Award that specifically refers to the frequency of wage payments.</u></p>
<i>Asphalt and Bitumen Industry (WA) Award 2000 – AP766093</i>	<p>18.1.1 Wages will be paid by electronic funds transfer into the employee’s bank (or other recognised financial institution) account without cost to the employee.</p> <p>18.2 Wages will be paid weekly</p>
<i>Asphalt and Bitumen Industry (NSW and ACT) Award 1999 – AP766022</i>	<p>17.1 Wages shall be paid weekly in the employer's time. Any employee required to wait for payment of wages after the usual ceasing time shall be paid at ordinary rates for all time until he/she receives such wages.</p>
<i>Asphalt and Bitumen Industry (Southern States) Award 1999 – AP766012</i>	<p>18.1 Wages will be paid no later than Thursday, weekly or fortnightly, either:</p> <ul style="list-style-type: none"> • According to the actual ordinary hours worked each week or fortnight; or • By agreement between the employer and the majority of employees in the relevant enterprise, wages may be paid three weekly, four weekly or monthly. Agreement in this respect may also be



	reached between the employer and an individual employee.
<i>Asphalt and Bitumen Industry (Queensland) Award 2000 – AP765981</i>	23 Wages shall be paid weekly. Where a majority of employees agree wages shall be paid at least fortnightly. Wages shall be paid by electronic bank transfer, unless otherwise agreed between the employer and a majority of employees.
<i>AWU Miscellaneous Workers (ACT) Award 1998 – AP765606</i>	18.1 Employees will be paid weekly or according to the custom existing prior to this award coming into force, during working hours not later in the week than Friday.
<i>Risdon Prison Redevelopment Project Enterprise Award - AN170089</i>	15 All employees shall be paid weekly by cash or electronic funds transfer to a banking account nominated by the employee. The employer will meet the cost of lodgement to the employee's banking account with the exception of Federal and State duty and taxes. Payments shall be paid and available to the employee not later than the cessation of ordinary hours of work on Thursday of each working week.
<i>Metal and Engineering On-Site Construction Industry Award - AN170063</i>	<u>PLEASE NOTE: There is no provision in this Award that specifically refers to the frequency of wage payments.</u>
<i>WA Government Health Services Engineering and Building Services Award 2004 – AN160329</i>	17 Employee's annual salary shall be paid in equal fortnightly instalments by direct funds transfer into an account nominated by the employee at an approved bank, building society or credit union.
<i>North Rankin Construction Award – AN160228</i>	<u>PLEASE NOTE: There is no provision in this Award that specifically refers to the frequency of wage payments.</u>
<i>Metal Trades (General) Award 1966 – AN160206</i>	18 Actual 38 ordinary hours: In the case of an employee whose ordinary hours of work are so that the employee works 38 ordinary hours each week, wages shall be paid weekly or fortnightly according to the actual ordinary hours worked each week or fortnight. Average of 38 ordinary hours: In the case of an employee whose ordinary hours of work are arranged so that the employee works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid weekly or fortnightly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.
<i>Industrial Spraypainting and Sandblasting Award 1991 – AN160180</i>	32 All wages, allowances and other monies shall be paid and available to the employee not later than the cessation of ordinary hours of work on Thursday of each working week.



<p><i>Foremen (Building Trades) Award 1991 – AN160133</i></p>	<p><u>PLEASE NOTE: There is no provision in this Award that specifically refers to the frequency of wage payments. However, the following clause may be relevant:</u></p> <p>8 A foreman's contract of employment shall be on a weekly basis unless advised in writing to the contrary by the employer.</p>
<p><i>Engine Drivers (General) Award – AN160115</i></p>	<p>18 Wages shall be paid at least once weekly within fifteen minutes after the worker's knock off time. In remote areas and by agreement between the employer and the worker concerned wages may be paid other than in accordance with the foregoing.</p>
<p><i>Engine Drivers (Building and Steel Construction) Award No. 20 of 1973 – AN160114</i></p>	<p>19 Actual 38 ordinary hours: In the case of an employee whose ordinary hours of work are arranged so that he works 38 ordinary hours each week, wages shall be paid weekly or fortnightly according to the actual ordinary hours worked each week or fortnight.</p> <p>Average of 38 ordinary hours: In the case of an employee whose ordinary hours or work are arranged so that he works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid weekly or fortnightly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.</p>
<p><i>Building Trades (Government) Award 1968 – AN160036</i></p>	<p>10 Employees wages will be paid fortnightly into a nominated account of either an approved Building Society, Credit Union or Bank and employees will not be allowed time off to collect their pay advice slips during normal working hours.</p>
<p><i>Australian Workers' Union Road Maintenance, Marking and Traffic Management Award – AN160016</i></p>	<p>4.5 Employees shall be paid their wages in cash, or where agreement is reached between the employer and the employee, payment of wages may be made by cheque or electronic funds transfer. Wages shall be paid during ordinary working hours of work on Thursday of each week.</p>
<p><i>Air Conditioning and Refrigeration Industry (Construction and Servicing) Award No. 10 of 1979 – AN160008</i></p>	<p>14 Actual 38 ordinary hours: In the case of an employee whose ordinary hours of work are arranged so that he works 38 ordinary hours each week, wages shall be paid weekly or fortnightly according to the actual ordinary hours worked each week or fortnight.</p> <p>Average of 38 ordinary hours: In the case of an employee whose ordinary hours or work are arranged so that he works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid weekly or</p>



	fortnightly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.
<i>Building Trades (SA) Construction Award – AN150023</i>	35.1 All wages, allowances and other moneys due shall be paid in cash not later than the cessation of ordinary hours of work on Thursday of each working week.
<i>Bricklayers and Tuckpointers (Mixed Industry) (SA) Award – AN150018</i>	14 All wages, allowances and/or moneys due up until the time of cessation of work at the end of a pay period, shall be paid no later than 48 hours after the end of such pay period or otherwise by mutual agreement. Wages may be paid weekly or fortnightly where it is by mutual agreement between the employer and the employee.
<i>Building and Construction Industry Award – state 2003 – AN140043</i>	5.4 All wages, allowances and other monies must be paid in cash or by cheque, bank cheque, bank or similar transfer or any combination of these, if there is agreement in writing between the employer, the employees and the Union. The consent of the Union must not be unreasonably withheld. Payments will be paid and available to the employee not later than the cessation of ordinary hours of work on Thursday of each working week.
<i>Landscape Gardeners, etc, on Building and General Construction and Maintenance, Civil and Mechanical Engineering (State) Award – AN120309</i>	23 Unless otherwise agreed between the employer and the employee, wages shall be paid by cash or into the employee's bank account - One day of each pay period shall be recognised as the pay day for each job. It shall be no later than the same day in each pay period.
<i>Glass Workers (State) Award – AN120232</i>	35 Wages shall be paid weekly. However, by agreement, wages may be paid fortnightly, four weekly or monthly.
<i>Glass Makers (State) Award – AN120231</i>	20 Wages shall be paid fortnightly and not more than 3 days wages shall be kept in hand. Provided that no existing practice at a site shall be altered, except by mutual agreement between the union and the employer, and provided that, by mutual agreement between the employer and the employee, normal weekly wage and penalty payments (where applicable) may be averaged and the employer shall pay the employee such average amount as that employee's normal weekly wage.
<i>Gangers (State) Award – AN120225</i>	14 Wages shall be paid weekly on the recognised pay day of each job, which shall be the same each week, unless in the opinion of the employer it is not reasonably practicable to make such weekly payment; in which case the existing system of payment may be continued.
<i>Engine Drivers General (State) Award – AN120196</i>	9.1 In the case of an employee whose ordinary hours of work are arranged so that the employee works 38 ordinary hours each week, wages shall be paid weekly or fortnightly according to the actual ordinary hours worked each week or fortnight.



	<p>9.2 In the case of an employee whose ordinary hours of work are arranged so that the employee works an average of 38 ordinary hours each week during a particular work cycle, wages shall be paid weekly or fortnightly according to a weekly average of ordinary hours worked even though more or less than 38 ordinary hours may be worked in any particular week of the work cycle.</p>
<p><i>Clerical and Administrative Employees, Hire Cars and Taxis (State) Award – AN120131</i></p>	<p>11 Wages shall be paid weekly or fortnightly. Prior to its introduction the employer should discuss the implementation of fortnightly pay with the employees.</p>
<p><i>Broken Hill Commerce and Industry Agreement Consent Award – AN120088</i></p>	<p><u>PLEASE NOTE: There is no provision in this Award that specifically refers to the frequency of wage payments.</u></p>
<p><i>Asphalt and Bitumen Industry (State) Consolidated Award – AN120023</i></p>	<p>9 Wages shall be paid weekly in the employer's time. Any employee required to wait for payment of wages after the usual ceasing time shall be paid at ordinary rates for all time until he/she receives such wages.</p>



ATTACHMENT C

IN FAIR WORK COMMISSION

FWA Matter No:
AM2016/23

Applicant:
Housing Industry Association

RE: FOUR YEARLY REVIEW OF THE MODERN AWARDS


STATEMENT OF KIRSTEN LEWIS

I, Kirsten Lewis of 79 Constitution Ave, Campbell ACT 2612, HIA Economics Coordinator state as follows:

- 1 I have been employed with the Housing Industry Association Limited (HIA) for 10 years.
- 2 I am currently employed as the HIA Economics Coordinator.
- 3 As Economics Coordinator I provide support and assistance to the HIA Economics Team. I am also responsible for the dissemination of member surveys and the compilation of the results of those member surveys.
- 4 I have the authority to swear this statutory declaration on behalf of HIA.
- 5 On 23 May 2016, I caused the Member Survey entitled 'Modern Awards Survey' (**Member Survey**) to be sent to HIA members.
- 6 Attached and marked **Annexure A** is a copy of the Member Survey.
- 7 The period within which HIA members could respond to the Member Survey was 8pm 23 May 2016 to approximately 6pm 21 June 2016.
- 8 Attached and marked **Annexure B** is a copy of the email sent to HIA members (**Member Email**).
- 9 HIA Members could respond to the Member Survey via a web link within the Member Email.
- 10 Attached and marked **Annexure C** is a copy of the report received indicating the number of recipients of the Member Email.
- 11 Annexure C states that :
 - a. The Member Email was sent to 26,102 email addresses.
 - b. Of those 26,102 email addresses:
 - i. 672 were invalid email addresses; and



- 12 On my analysis of Annexure C, 23,810 HIA members received the Member Survey.
- 13 In July 2016, I caused a report to be generated containing the results of the Member Survey (**Report**).
- 14 Attached and marked **Annexure D** is a copy of the Report.
- 15 The Report states that 290 HIA members responded to the Member Survey.

Signature of person making statement: 
Declared at Canberra
on 29.11.2016

Before me:
Signature of Witness: 
Name of Witness: DAVID HUMPHREY - Solicitor
Address of Witness: 79 Constitution Ave, Campbell ACT 2612

Lodged by: Housing Industry Association Address for Service: 4 Byfield Street North Ryde 2113	Telephone: (02) 9978 3334 Facsimile: (02) 9888 6677 Email: m.adler@hia.com.au
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Annexure A

Modern Awards Survey

1. What is the size of your business?
 - 1-5 employees
 - 6 -15 employees
 - 16-30 employees
 - 31 -100 employees
 - 100 + employees

2. Do you currently employ (select more than one if applicable)
 - Full time employees
 - Part time employees
 - Casual employees

3. Which state are you based in?
 - NSW
 - QLD
 - SA
 - WA
 - NT
 - Tasmania
 - ACT

4. Is your business a (select one) -
 - PTY LTD company
 - Sole Trader
 - Partnership

5. Are you a (select more than one if applicable) -
 - Builder
 - Renovator
 - Developer
 - Manufacturer
 - Supplier

6. Do you engage contractors?
 - Yes
 - No

7. Do you work on:

- residential construction sites only
- both residential and commercial construction sites
- commercial construction sites only

Agreements/Awards

An employee's minimum terms and conditions of employment are set out in a Modern Award. A Modern Award will apply to an employer and their employees based on the industry they are in and the work they do.

Instead of a Modern Award some employees may be covered by an Enterprise Bargaining Agreement (often called EBAs). An Enterprise Bargaining Agreement is a legally binding agreement, negotiated between an employer and their employees/ the employee's union and approved by the Fair Work Commission that sets out the pay and working conditions of those people covered by it.

8. Select the Modern Award that applies to you:

- The Building and Construction General Onsite Award
- The Joinery and Building Trades Award
- Timber Industry Award
- More than one of the above awards applies
- Other, please specify _____

9. In the last 6 years has your business entered into an Enterprise Bargaining Agreement?

- Yes
- No
- Don't know

10. Has your business and your employees ever been covered by an Enterprise Bargaining Agreement?

- Yes
- No
- Don't know

11. Have you or your employees ever been approached to enter into an Enterprise Bargaining Agreement?

- Yes
- No
- Don't know

12. Are any of your employees covered by an Individual Flexibility Agreement?

An Individual Flexibility Agreement is an arrangement entered into between an employer and an individual employee that enables the parties to agree to alter some limited terms and conditions of a Modern Award.

- Yes
- No
- Don't know

Hours of Work

Only answer this question if you are covered by the *Building and Construction General Onsite Award (Onsite Award)*.

Under the Onsite Award ordinary working hours are to be worked on an RDO System.

This means that in a 20 day four week cycle, Monday to Friday inclusive, eight hours is worked for each of 19 days and with 0.4 of an hour on each of those days accruing towards the twentieth day, which will be taken as a paid day off. The twentieth day of that cycle will be known as the rostered day off (RDO).

13. Do your employees currently receive RDO's?

- Yes
- No

14. What would be the effect on your business if your employees did not receive RDO's?

15. What would your preferred method for arranging hours of work?

- The RDO system outlined above
- 38 hours averaged over a 7 day week
- 38 hours per week, with 8 hours work each day Monday – Thursday and 6 hours worked on Friday.
- Other, please specify _____

16. In your opinion, is the current requirement to operate on an RDO system appropriate for the residential construction industry?

Overtime

Generally when an employee works more than their ordinary hours per week (for example more than 38 hours in a week, outside the span of ordinary hours (for example,

before 7am and after 6pm) or on weekends), an employer is required to pay the employee at overtime rates being, for example, time and a half or double time.

17. Do your employees currently work overtime?

- Yes
- No

18. If you answered yes above, how often do your employees work overtime (including weekends)?

- Never
- 1-2 times per week
- 3-4 times per week
- 5-6 times per week
- Other, please specify _____

19. Has an employee ever requested that instead of being paid for the overtime worked it is accrued and taken as paid leave at another time?

- Yes
- No
- Don't know

20. What would be the effect on your business if your employees could accrue overtime worked towards leave taken at another time?

21. Would your answer change if:

a) For each hour worked, the employee was entitled to one hour paid leave?

- Yes
- No

b) For each hour worked, the employee was entitled to 1.5 hours or 2 hours paid leave i.e. the number of hours of paid leave accrued by an employee was equal to the rate at which the employee would have been paid had they worked the overtime?

- Yes
- No

22. Do you have any other comments about the ability of an employer and employee to agree to accrue overtime worked towards paid leave taken at another time?

Only answer the following questions if your employees are employed under the Building and Construction General Onsite Award.

Payment of Wages

23. Do you currently pay your employees their wages

- Weekly
- Fortnightly
- Monthly
- Other, please specify _____

24. Based on your previous answer, why do you pay wages on that basis?

25. Did you know that under the Building and Construction General Onsite Award you are required to pay wages weekly?

- Yes
- No

26. If you do not currently pay wages weekly, what would be the effect on your business if you were required to?

27. Do you provide a company vehicle to your award based employees?

- Yes
- No
- Other, please specify _____

28. Where a company vehicle is provided do you cover the cost of fuel?

- Yes
- No
- Other, please specify _____

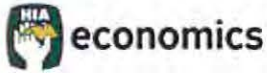
29. Where a company vehicle is not provided do you provide a fuel card or reimburse your employees for the cost of fuel?

- Yes
- No
- Other, please specify _____

30. Do you provide your employees with all of the tools and protective boots necessary to carry out the work?

- Yes
- No
- Other, please specify _____

Annexure B



Dear HIA Member

The Fair Work Commission is currently reviewing the Building and Construction General Onsite Award 2010 or the Joinery and Building Trades Award 2010. HIA is surveying members to gain insight into the operation of various clauses within the Building and Joinery Awards to help the Fair Work Commission understand the practices of real employers in the residential construction industry. This will enable the Commission to make more informed decisions in this part of its current review of modern awards.

We know that your time is valuable and we thank you very much for participating. The survey is important to the process being undertaken by the Fair Work Commission. The survey should take between 5-10 minutes.

Your assistance with this research would be greatly appreciated.

[Please click here to begin the survey](#)

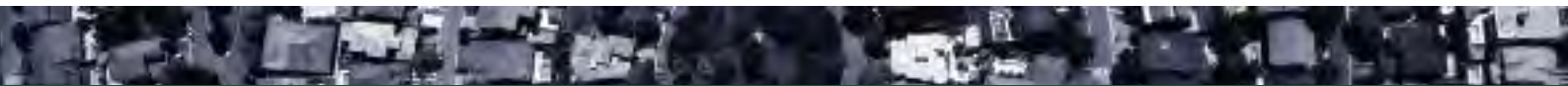
All responses are strictly confidential. Should you have any questions please contact Kirsten Lewis on 02 6245 1393 or economics@hia.com.au

Kind Regards,

Harley Dale
Chief Economist
Housing Industry Association Ltd
79 Constitution Ave, Campbell ACT 2612
Phone: 02 6245 1393 Fax: 02 6257 5658
Visit our website: <http://economics.hia.com.au>

Annexure C

Message Log ID	Message Date	Subject	Total Subscribers	Total Blank	Total Invalid	Total Duplicates	Total Sent
11243	20/05/2016 12:35:00 PM	Attention HIA Members Survey on the Modern Award*	26102	0	672	1620	23810



Building and Joinery Awards

July 2016



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Respondents qualifying information

Survey details:

The survey was conducted over May to July 2016. 290 people across the HIA membership responded to the survey.

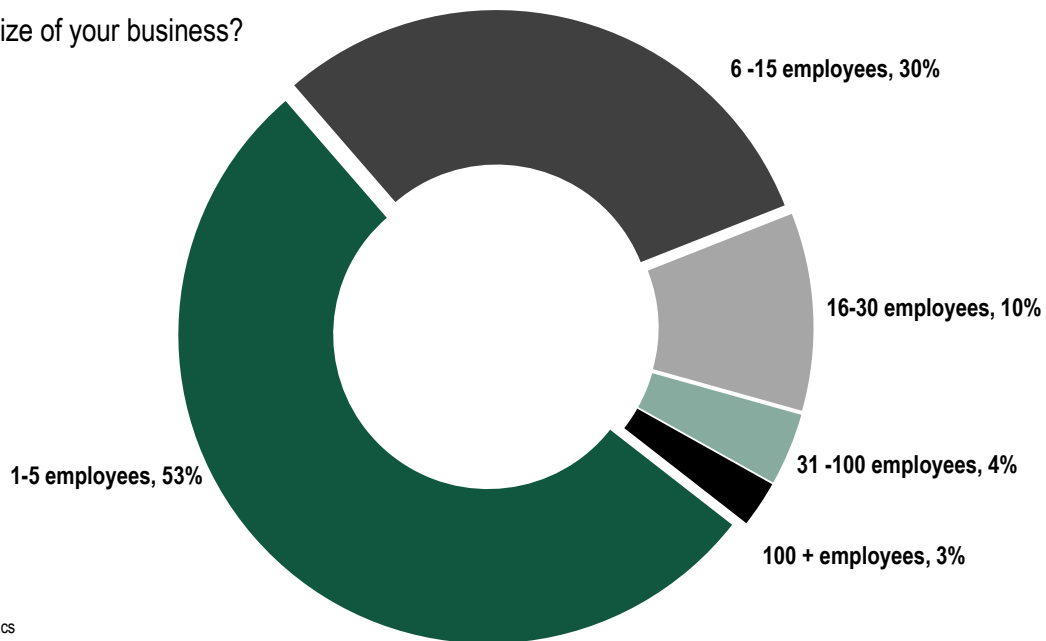
53 per cent of respondents stated their business comprised 1-5 employees, 57 per cent employed full time staff. 32 per cent were based in New South Wales, 26 per cent in Victoria and 16 per cent in Queensland. 73 per cent stated they were a company, 53 per cent stated they were builders and 91 per cent engaged contractors.

Responses to the survey questions are outlined below.

What is the size of your business?

53 per cent of respondents stated they had 1-5 employees followed by 30 per cent stating 6-5 employees. 10 per cent stated 16-30 employees, 4 per cent stated 31-100 employees and 3 per cent stated 100+ employees.

What is the size of your business?



Source: HIA Economics

On a state by state breakdown:

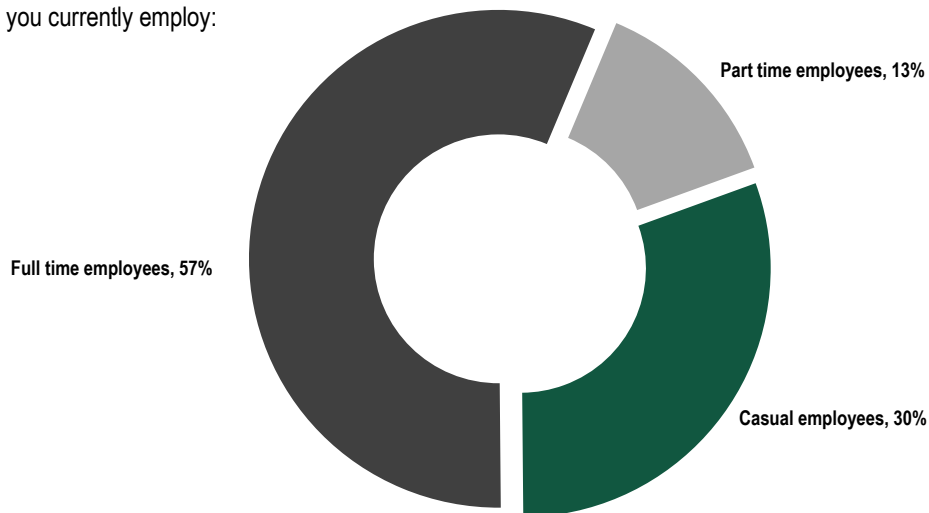
	1-5 employees	6-15 employees	16-30 employees	31-100 employees	100+ employees
Australian Capital Territory	70%	20%	0%	10%	0%
New South Wales	48%	40%	9%	2%	1%
Northern Territory	67%	0%	33%	0%	0%
Queensland	44%	29%	23%	4%	0%
South Australia	46%	38%	13%	4%	0%
Tasmania	62%	33%	5%	0%	0%
Victoria	63%	19%	7%	4%	7%
Western Australia	50%	28%	6%	11%	6%



Do you currently employ:

57 per cent of respondents stated they employ full time employees, followed by 30 per cent who stated casual employees and 13 per cent stated part time employees.

Do you currently employ:



Source: HIA Economics

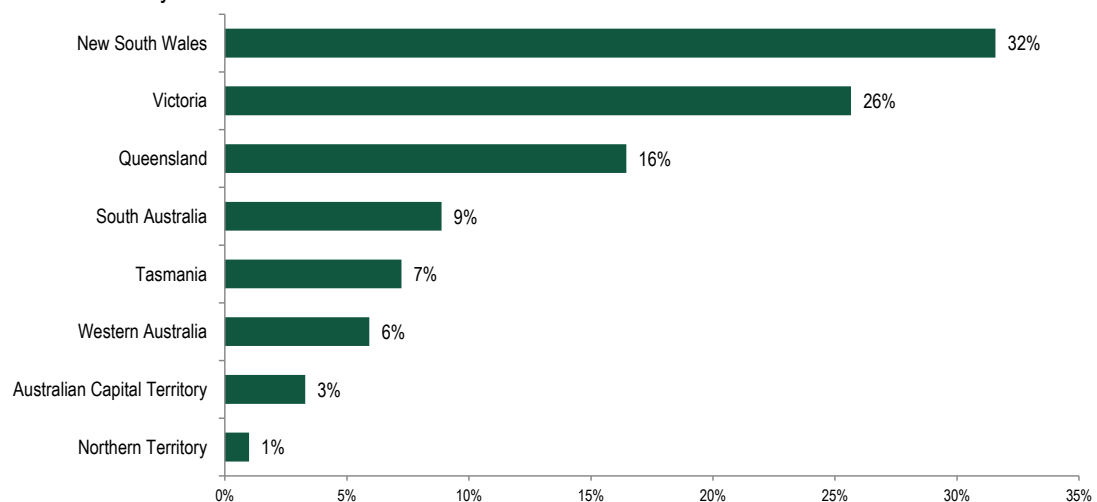
On a state by state breakdown:

	Casual employees	Full time employees	Part time employees
Australian Capital Territory	33%	60%	7%
New South Wales	28%	58%	15%
Northern Territory	43%	29%	29%
Queensland	35%	55%	11%
South Australia	38%	49%	13%
Tasmania	29%	61%	10%
Victoria	28%	60%	12%
Western Australia	27%	53%	20%

Which state are you based in?

32 per cent of respondents were based in New South Wales: 26 per cent in Victoria: 16 per cent in Queensland:

Which state are you based in?



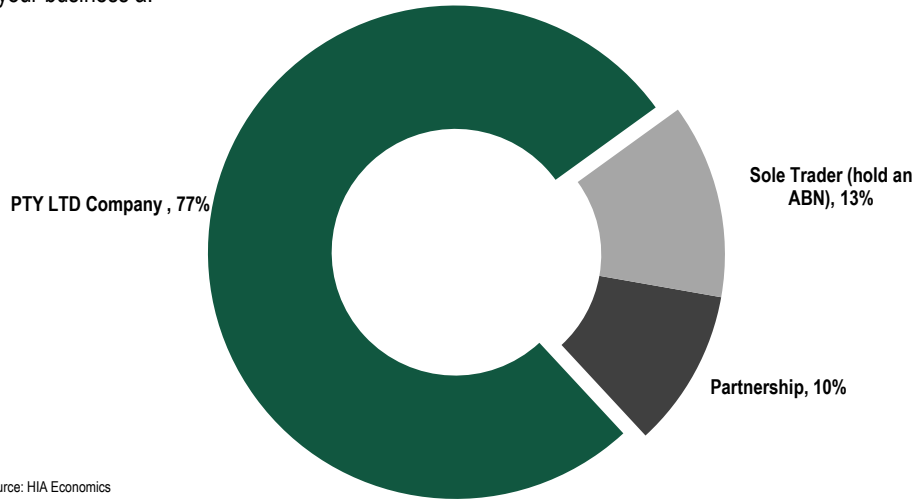
Source: HIA Economics



Is your business a:

The majority of respondents, 77 per cent stated their business as Pty Ltd Company followed by 13 per cent Sole Trader and 10 per cent Partnership.

Is your business a:



Source: HIA Economics

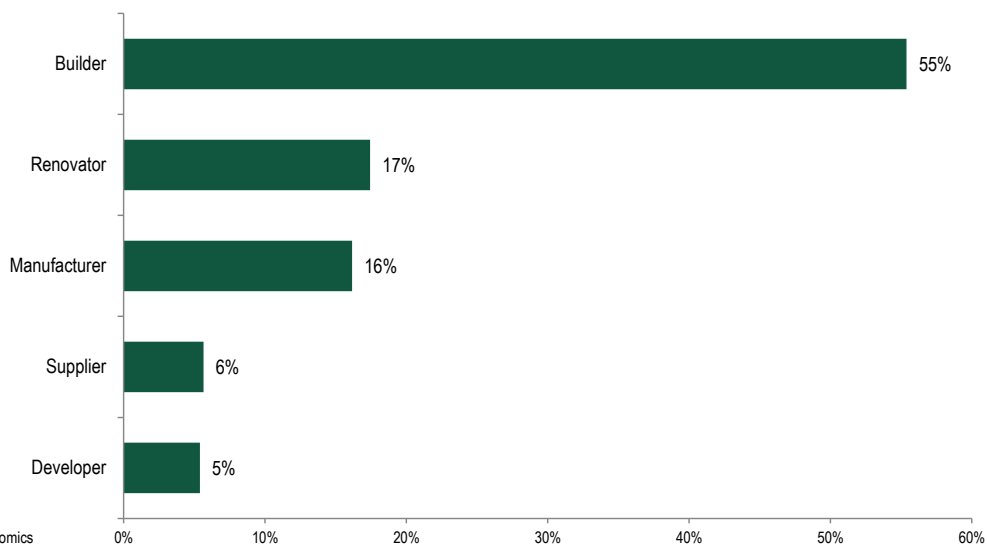
On a state by state breakdown:

	Partnership	PTY LTD Company	Sole Trader (hold an ABN)
Australian Capital Territory	10%	90%	0%
New South Wales	12%	76%	12%
Northern Territory	0%	100%	0%
Queensland	6%	85%	8%
South Australia	13%	79%	8%
Tasmania	29%	52%	19%
Victoria	5%	75%	19%
Western Australia	11%	78%	11%

Are you a:

55 per cent of respondents stated their business as Builder followed by 17 per cent Renovator, 16 per cent Manufacturer, 6 per cent Supplier and 5 per cent Developer.

Are you a:



Source: HIA Economics



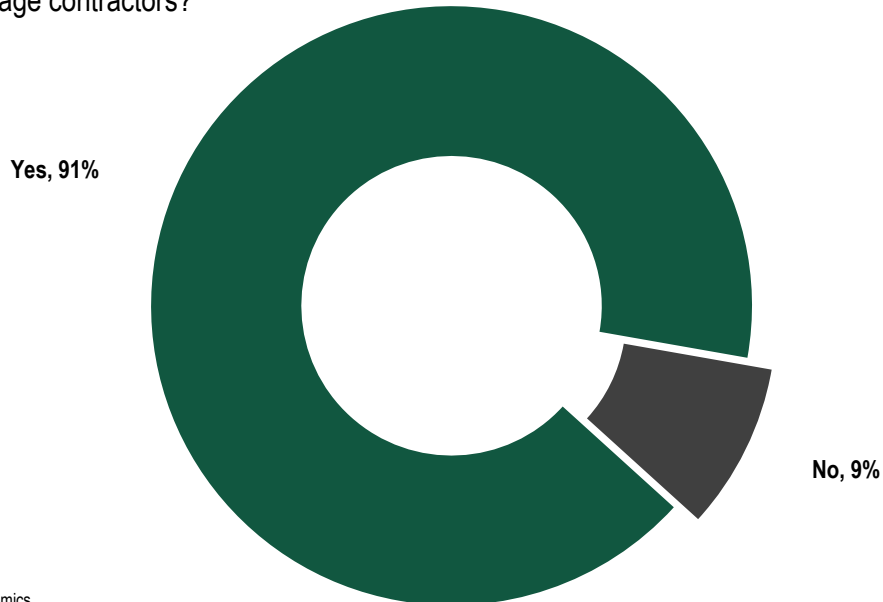
On a state by state breakdown:

	Builder	Developer	Manufacturer	Renovator	Supplier
Australian Capital Territory	62%	0%	15%	15%	8%
New South Wales	58%	6%	16%	16%	4%
Northern Territory	75%	0%	0%	25%	0%
Queensland	50%	3%	18%	21%	8%
South Australia	50%	3%	25%	13%	9%
Tasmania	67%	11%	4%	19%	0%
Victoria	59%	7%	14%	17%	3%
Western Australia	30%	0%	26%	22%	22%

Do you engage contractors?

The majority of respondents, 91 per cent stated they engaged contractors.

Do you engage contractors?



Source: HIA Economics

On a state by state breakdown:

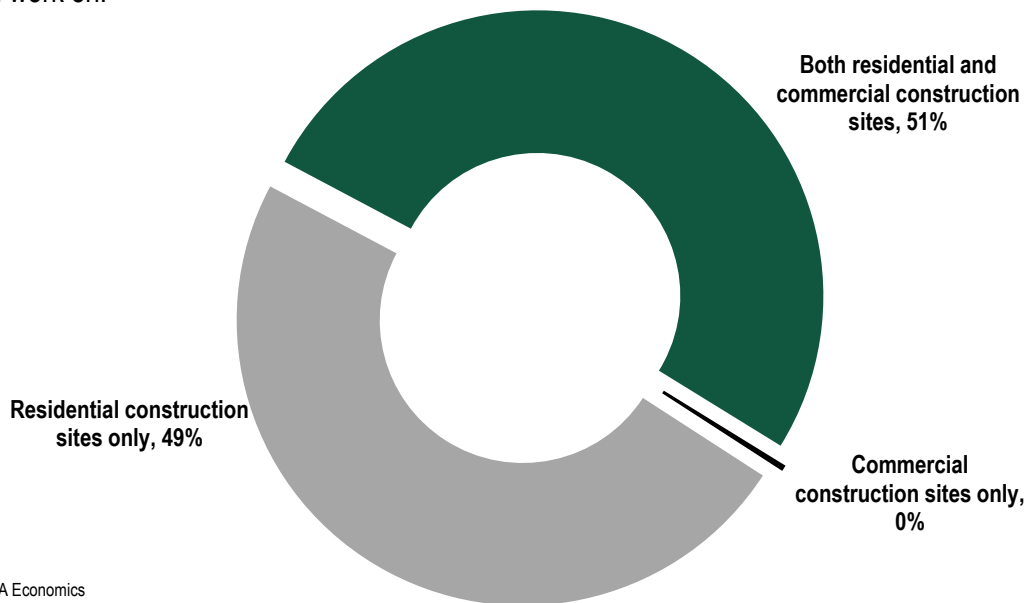
	No	Yes
Australian Capital Territory	0%	100%
New South Wales	8%	92%
Northern Territory	0%	100%
Queensland	6%	94%
South Australia	17%	83%
Tasmania	5%	95%
Victoria	15%	85%
Western Australia	0%	100%



Do you work on:

51 per cent stated they work on both residential and commercial construction sites, 49 per cent stated they worked on residential construction sites only and 0.3 per cent on commercial construction sites only.

Do you work on:



Source: HIA Economics

On a state by state breakdown:

	Both residential and commercial construction sites	Commercial construction sites only	Residential construction sites only
Australian Capital Territory	40%	0%	60%
New South Wales	54%	1%	45%
Northern Territory	67%	0%	33%
Queensland	65%	0%	35%
South Australia	58%	0%	42%
Tasmania	48%	0%	52%
Victoria	33%	0%	67%
Western Australia	72%	0%	28%



Agreements/Awards

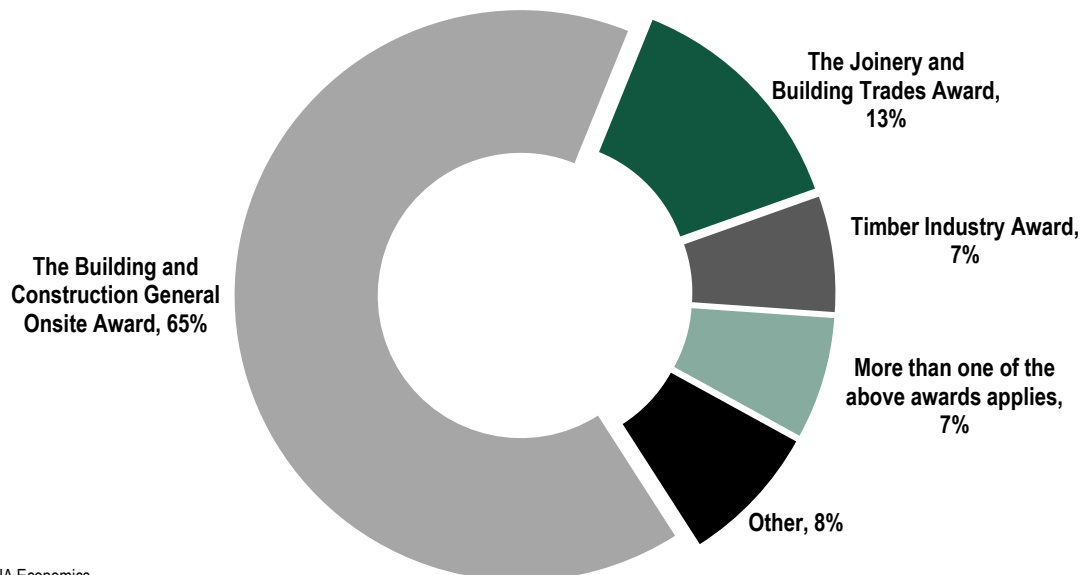
An employee’s minimum terms and conditions of employment are set out in a Modern Award. A Modern Award will apply to an employer and their employees based on the industry they are in and the work they do.

Instead of a Modern Award some employees may be covered by an Enterprise Bargaining Agreement (often called EBA’s). An Enterprise Bargaining Agreement is a legally binding agreement, negotiated between an employer and their employees/the employee’s union and approved by the Fair Work Commission that sets out the pay and working conditions of those people covered by it.

Select the Modern Award that applies to you:

The majority of respondents, 65 per cent stated they work under the Building and Construction General Onsite Award, 13 per cent the Joinery and Building Trades Award, 7 per cent equally under the Timber Industry Award and More than one of the above awards applies to their business.

Select the Modern Award that applies to you:



Source: HIA Economics

On a state by state breakdown:

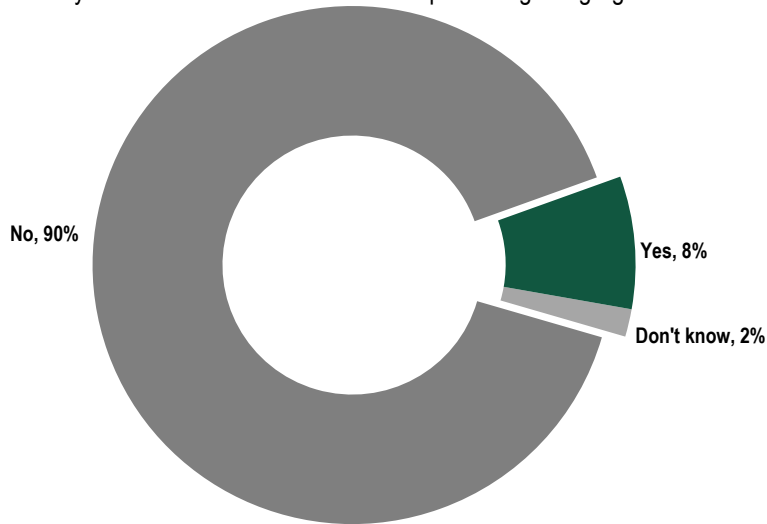
	More than one of the above awards applies	Other	The Building and Construction General Onsite Award	The Joinery and Building Trades Award	Timber Industry Award
Australian Capital Territory	0%	10%	60%	30%	0%
New South Wales	3%	5%	71%	15%	5%
Northern Territory	33%	33%	0%	33%	0%
Queensland	4%	6%	67%	10%	13%
South Australia	4%	8%	63%	17%	8%
Tasmania	5%	0%	81%	14%	0%
Victoria	14%	10%	63%	11%	3%
Western Australia	11%	22%	39%	6%	22%



In the last 6 years has your business entered into an Enterprise Bargaining Agreement?

Nearly all respondents, 90 per cent stated over the last 6 years their business has not entered into an Enterprise Bargaining Agreement.

In the last 6 years has your business entered into an Enterprise Bargaining Agreement?



Source: HIA Economics

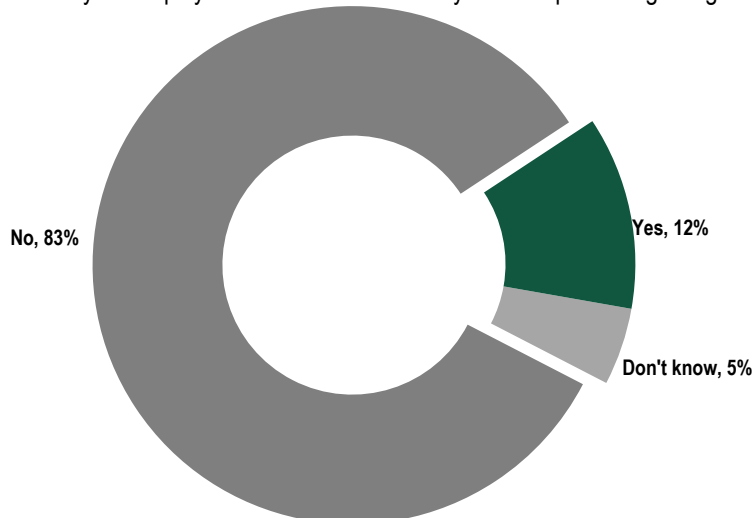
On a state by state breakdown:

	No	Yes	Don't know
Australian Capital Territory	90%	10%	0%
New South Wales	85%	12%	3%
Northern Territory	100%	0%	0%
Queensland	94%	6%	0%
South Australia	92%	8%	0%
Tasmania	100%	0%	0%
Victoria	93%	5%	1%
Western Australia	78%	17%	6%

Has your business and your employees ever been covered by an Enterprise Bargaining Agreement?

The majority of respondents, 83 per cent stated their business and employees have not been covered by an Enterprise Bargaining Agreement, 12 per cent stated they have been covered by an Enterprise Bargaining Agreement and 5 per cent stated they didn't know.

Has your business and your employees ever been covered by an Enterprise Bargaining Agreement?



Source: HIA Economics



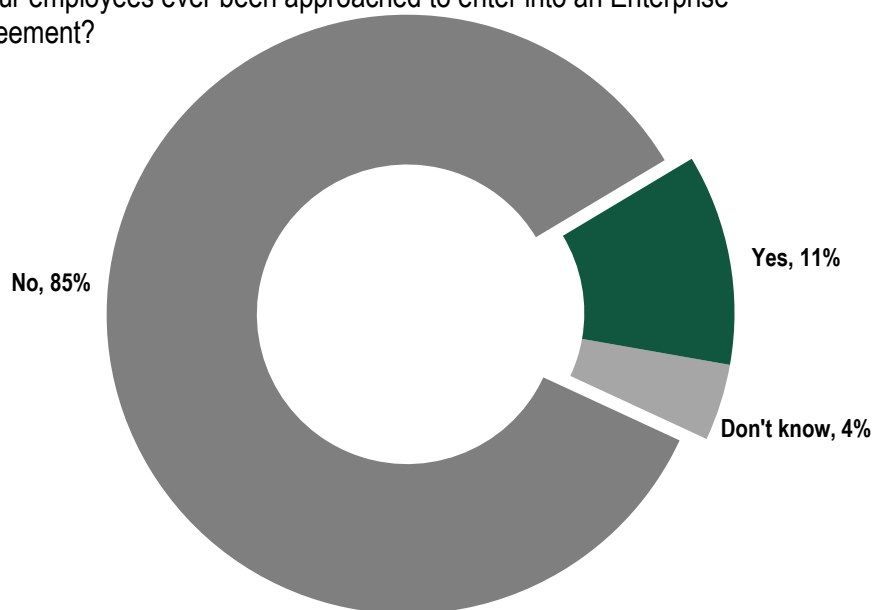
On a state by state basis:

	No	Yes	Don't know
Australian Capital Territory	100%	0%	0%
New South Wales	76%	15%	9%
Northern Territory	100%	0%	0%
Queensland	83%	15%	2%
South Australia	79%	17%	4%
Tasmania	95%	5%	0%
Victoria	89%	8%	3%
Western Australia	72%	17%	11%

Have you or your employees ever been approached to enter into an Enterprise Bargaining Agreement:

The majority of respondents, 85 per cent stated they have not been approached to enter into an Enterprise Bargaining Agreement.

Have you or your employees ever been approached to enter into an Enterprise Bargaining Agreement?



Source: HIA Economics

On a state by state basis:

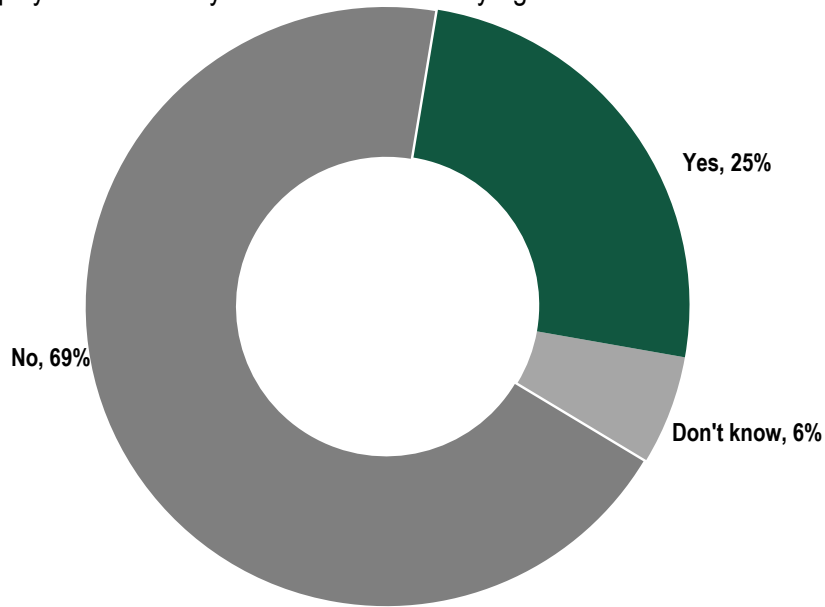
	No	Yes	Don't know
Australian Capital Territory	90%	10%	0%
New South Wales	84%	12%	4%
Northern Territory	100%	0%	0%
Queensland	83%	15%	2%
South Australia	75%	13%	13%
Tasmania	95%	0%	5%
Victoria	86%	11%	3%
Western Australia	78%	17%	6%



Are any of your employees covered by an Individual Flexibility Agreement?

The majority of respondents, 69 per cent stated their employees are not covered by an Individual Flexibility Agreement. 25 per cent stated their employees are covered by an Individual Flexibility Agreement and 6 per cent stated they didn't know.

Are any of your employees covered by an Individual Flexibility Agreement?



Source: HIA Economics

On a state by state basis:

	No	Yes	Don't know
Australian Capital Territory	80%	20%	0%
New South Wales	71%	24%	5%
Northern Territory	67%	33%	0%
Queensland	52%	38%	10%
South Australia	67%	29%	4%
Tasmania	81%	14%	5%
Victoria	75%	21%	4%
Western Australia	61%	28%	11%



Hours of work

Under the Building and Construction General Onsite Award ordinary working hours are to be worked on an RDO system.

This means that in a 20 day four week cycle, Monday to Friday inclusive, eight hours is worked for each of 19 days and with 0.4 of any hour on each of those days accruing towards the twentieth day, which will be taken as a paid day off. The twentieth day of that cycle will be known as the rostered day off (RDO)

Do your employees currently receive RDO's?

The majority of respondents, 67 per cent stated their employees currently do not receive RDO's and 33 per cent stated their employees do.

Do your employees currently receive RDO's?



Source: HIA Economics

On a state by state basis:

	No	Yes
Australian Capital Territory	33%	67%
New South Wales	57%	43%
Northern Territory	100%	0%
Queensland	76%	24%
South Australia	63%	38%
Tasmania	56%	44%
Victoria	82%	18%
Western Australia	78%	22%



What would be the effect on your business if your employees did not receive RDO's

Responses are provided in their entirety (19 per cent of respondents provided a comment)

Australian Capital Territory: Better able to meet clients' needs without down time.

Australian Capital Territory: I already loose one man a week at Tech, very hard for a small firm, then rain days, sick days.

Australian Capital Territory: More productivity, more profit to the business, therefore, we could employ more people! Simple isn't it?

New South Wales: angry employees

New South Wales: Beneficial

New South Wales: Better productivity, however we still need to be onsite 8hrs a day as this effects other trades Alternative is to shut down sites completely. This affects self-employed contractors as they generally don't take RDO's.

New South Wales: Financial limitations

New South Wales: Improved customer service as the business would be operational continually without shutting down for the day

New South Wales: increased productivity

New South Wales: Increased productivity

New South Wales: Increased productivity with regards to onsite installations

New South Wales: Initially some concern by employees, in the long run very little impact.

New South Wales: It would be better

New South Wales: More production

New South Wales: more productivity

New South Wales: more productivity.

New South Wales: Negative

New South Wales: Minimal

New South Wales: No effect. All our employees work overtime and do not have their RDO's on the day as they like to use them if they want a long weekend or some other time off because of family etc.

New South Wales: None

New South Wales: None

New South Wales: Significant cost saving

New South Wales: That would be really good more hours of work on overtime

New South Wales: The boy's would just take days off instead of using an RDO that that have saved.

New South Wales: They would be paid for hours worked and take a day off when they needed to do something private.

Queensland: It would be a benefit to productivity

Queensland: lower cost and increased productivity

Queensland: more onsite work achieved

Queensland: more productivity, they would get more pay as would also get paid overtime on the day off. Just set a standard 8hr/day, 40 hour work week and everything excess is at overtime rates and keep things simple.

Queensland: More time

Queensland: Nil

Queensland: Nothing

Queensland: Probably be more productive.

South Australia: More profitable

South Australia: No effect

South Australia: RDO sometimes used as lay days when jobs not ready if possible, would have to pay full time employee for these days off otherwise. Hard to pay employees when I'm not getting paid, nice to have that flexibility.

Tasmania: Better working arrangements

Tasmania: lose flexibility to give them RDO when it rains etc

Tasmania: More sick days

Tasmania: Negligible, as our employees stagger their RDO's for private reasons.

Tasmania: None

Tasmania: Nothing we mainly hire casuals

Tasmania: We find having to manage RDO's particularly onerous and it's hard to explain to clients that no one is on-site because they have an RDO. If employees work through their RDO then the only time they can take them is in January which means that they don't use all on their annual leave which puts further pressure on us.



Tasmania: We have operated on the RDO system for over 10 years and we would not appreciate loss of the RDO system.

Victoria: Better Productivity

Victoria: Extra costs of overtime wages.

Victoria: Higher wage costs

Victoria: It would improve output

Victoria: more work done

Victoria: Productivity would increase. It would be easier for us to make our margin which has been really difficult over the last 8 years

Victoria: RDO's are a good time for me to work on the business without interruptions. If there were no RDO's, I would have to do this work at other times, e.g. weekends. RDO's also reduce the amount of sick leave taken for 'sickies' when employees need to have a personal day off.

Victoria: They would leave.

Victoria: They would take more time off

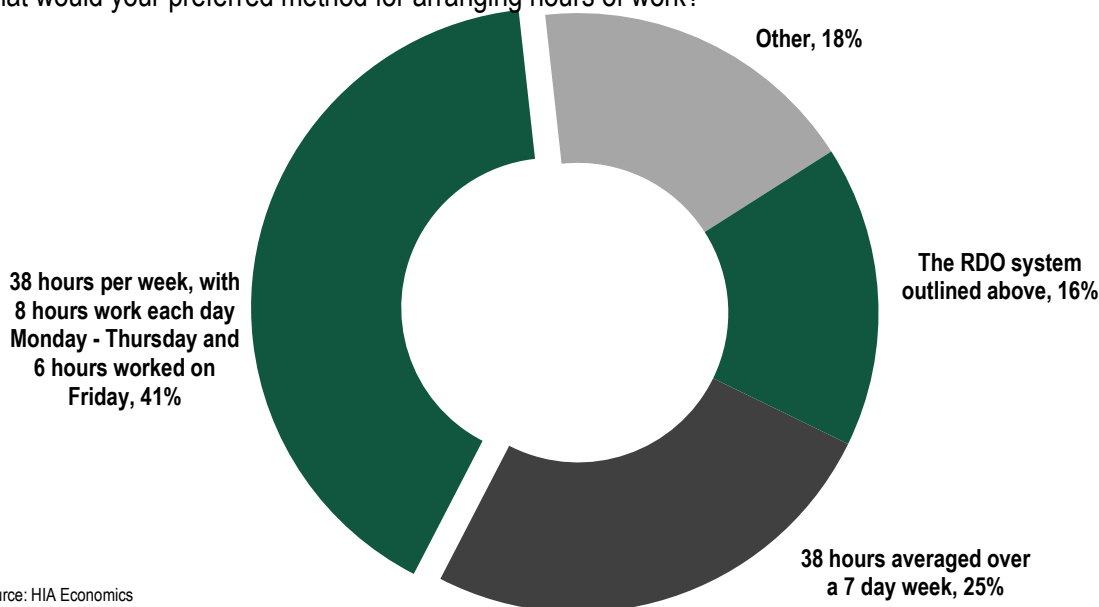
Victoria: Unhappy employees

Western Australia: More flexible work days

What would your preferred method for arranging hours of work?

41 per cent of respondents stated they would prefer 38 hours per week with 8 hours work each day Monday – Thursday and 6 hours worked on Friday. 25 per cent stated 38 hours averaged over a 7 day week and 16 per cent stated the RDO system outlined above.

What would your preferred method for arranging hours of work?



Source: HIA Economics

On a state by state breakdown:

	38 hours averaged over a 7 day week	38 hours per week, with 8 hours work each day Monday - Thursday and 6 hours worked on Friday	Other	The RDO system outlined above
Australian Capital Territory	0%	50%	17%	33%
New South Wales	20%	43%	10%	26%
Northern Territory	100%	0%	0%	0%
Queensland	35%	44%	15%	6%
South Australia	13%	25%	38%	25%
Tasmania	22%	50%	17%	11%
Victoria	34%	38%	20%	9%
Western Australia	11%	33%	44%	11%



In your opinion, is the current requirements to operate on an RDO system appropriate for the residential construction industry?

Responses are provided in their entirety (57 per cent of respondents provided a comment)

Australian Capital Territory: No as we are only a small company

Australian Capital Territory: NO, it is ridiculous! There is NO work ethic anymore for employees. It seems that employees just want to 'Turn up' to get paid and to collect the benefits, and not really have to work! It's time to wind this back, and then we might be able to employ more people!

Australian Capital Territory: Yes.

New South Wales: As long as it is flexible which we always allow.

New South Wales: I don't think so.

New South Wales: I think the RDO system should be an option negotiated between employer and employee/s not a requirement.

New South Wales: Losing a whole day every four weeks for a RDO is not good for overall production in small businesses.

New South Wales: no

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: no

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No

New South Wales: No I don't feel that it works in the residential field, need flexibility, it's hard enough to have apprenticeships and co-ordinate a 4 day week for them.

New South Wales: NO I prefer to work 8hrs per day, 5 days a week

New South Wales: No it is not flexible enough

New South Wales: No, It basically gives workers 2.5 extra week's holiday a year as RDO's are generally taken on request or as blocks

New South Wales: no, it's not, would rather see the base rate for Carpentry employees raised to suit the abolishment of RDO

New South Wales: no, not for small business

New South Wales: No. It's outdated.

New South Wales: No. Residential sub-contractors keep on working no matter what the day.

New South Wales: No. The cost of housing is far too expensive as it is. This is not the only reason, but part of a larger problem that accumulates costs that are then transferred onto customers.

New South Wales: Not really

New South Wales: Start and finish times are not always definite so we need flexibility

New South Wales: Stupid - nothing would ever get done. Some trades (eg painters, plasterers) seem to have early knock-off Fridays, but sparkies, carpenters and plumbers generally don't.

New South Wales: The current arrangement to operate on an RDO system is outdated and inappropriate for any industry now.

New South Wales: This system does not work for us as a small residential builder as we do not have enough staff to allow us to effectively manage the RDO's without impacting workflows and project progress

New South Wales: We are a micro company. RDO's just don't work in our day to day schedule. I do not think that RDO's are appropriate for the residential construction industry for micro companies.

New South Wales: We can work to it. Most clients are OK with having a day off site a month

New South Wales: Why does the Employer have to pay travel on a RDO when the Employee does not travel to work on that RDO.

New South Wales: Yes

New South Wales: Yes



New South Wales: Yes

New South Wales: Yes

New South Wales: Yes

New South Wales: Yes

New South Wales: yes

New South Wales: yes

New South Wales: Yes it seems to work ok because we have to abide by it.

New South Wales: Yes work hard for six day a week then enjoy a long weekend

New South Wales: Yes, it allows time to catch up on office work etc

New South Wales: yes, why should it be different to commercial work?

Northern Territory No

Queensland: Depends on the individual, some prefer to take the money and keep working with no RDO's

Queensland: I guess it's beneficial. Sometimes there are clients that require works to be completed on a weekend and it's hard to limit to 38 hours a week. It's also hard to have employees take days off due to the current work load

Queensland: No

Queensland: No

Queensland: No

Queensland: no

Queensland: No

Queensland: No

Queensland: No

Queensland: No

Queensland: No

Queensland: no

Queensland: No does Australia want affordable housing or not.

Queensland: No it is entirely inappropriate for smaller construction companies in general. We already deal with delay issue due to weather etc. Having labourers and carpenters on rostered days off interferes greatly with construction programming.

Queensland: No it is ridiculous. It is disruptive to business, worksites and clients. Employees should be paid for the hours they work, not accruing hours each day.

Queensland: NO! everyone on site works 8 hrs / day minimum anyway, RDO's are simply an inconvenience to all as we have many staff who ask to be paid out their RDO and want to work so they get overtime pay & get the job done. RDO's really should be phased out. If people want a day off, take it as Annual Leave like every other award/profession. If people want to leave early, then they should start early or take it as leave/unpaid leave. RDO's are overcomplicating what could be a simple award and pay per hour/standard day with everything in excess of 8 hours paid at overtime rates

Queensland: No.

Queensland: No. Construction Industry usual involves hard manual labour and it's too much to expect staff on a Friday afternoon to keep up that level of activity.

Queensland: no. it makes no sense at all. On site is a waste of time.

Queensland: No. My business is only very small with myself and 1 apprentice as an employee. All other workers are engaged as sub-contractors. Losing one day's labour/productivity every 20 days will cause increased delays to my projects.

Queensland: NO. Pressures from many sources require 1 man/small business to wear many hats. Cost of administration is ridiculous.

Queensland: Yes

Queensland: Yes

Queensland: Yes

Queensland: yes

Queensland: Yes and no

South Australia: No

South Australia: No

South Australia: no

South Australia: No

South Australia: No it is not.

South Australia: No, it is not economically viable hence people now using Sub Contractors as opposed to employing.

South Australia: No. It makes programming difficult. It adds a substantial cost to the business.

South Australia: No. No. No. Did I say NO. NO

South Australia: Not flexible enough



South Australia: We don't use it, therefore do not see it as a benefit to the residential construction industry

South Australia: Yes

South Australia: Yes

South Australia: Yes

Tasmania: An RDO system is not appropriate in the residential system as clients in that industry are highly emotive and want their house built as soon as possible. RDO's compounded by inclement weather days (where we still have to pay employees).

Tasmania: Depends on the type of business you are operating.

Tasmania: No

Tasmania: No

Tasmania: No

Tasmania: No

Tasmania: no

Tasmania: No

Tasmania: No, different sized businesses in different locations need the ability to manage flexibility with their workers to determine the best arrangement of working days themselves without the need for establishing individual flexibility arrangements.

Tasmania: No. Employees should be able to work whatever they like. We should pay them for eighty hours a fortnight and any extra time they do they should be able to take off in lieu when they wish.

Tasmania: No. We are a small company and sometimes RDO's are not convenient for our workload which varies.

Tasmania: Not for our small business. We require all hands on deck every work day, since we do not have enough employees to cover RDO's and the works we perform cannot be closed down for any one work day. (Commercial clients especially would think that would be a joke). If an employee works more than the 7.6 hours, they receive penalty rates.

Tasmania: Not really

Tasmania: Up to individual businesses to come to an agreement with employees.

Tasmania: Yes

Tasmania: Yes

Victoria: Employees work 38 hours per 5 day week no RDO

Victoria: it becomes hard to plan for RDO's when weather and delivery times are constant variables. We would be happy to pay for a 40 hour week

Victoria: no

Victoria: No

Victoria: No

Victoria: NO

Victoria: No

Victoria: NO

Victoria: No

Victoria: No

Victoria: No

Victoria: No

Victoria: No

Victoria: No

Victoria: No

Victoria: no

Victoria: No

Victoria: no

Victoria: No, it is not appropriate for residential construction.

Victoria: NO as it's a whole day of no productivity this country already has enough public holidays / sick days & holidays

Victoria: No as there are many types & sizes of businesses & different things will work for each. & also employees' needs are different.

Victoria: No because it's disruptive

Victoria: No it is not appropriate, as we can't always predict what works will be undertaken or materials will arrive at site on the day of the RDO. Also with inclement weather in our industry will change the working schedule on a daily basis. My employees and I would much rather work and get paid the 40 hours a week and have no RDO or the 2 hours less every Fridays to make the 38 hour week.

Victoria: No need

Victoria: no RDO too much down time

Victoria: No, as many residential developments are constructed with a mix of employees and subcontractors. Under Worksafe guidelines and practices the builder is required to exercise control and safety of sites whilst works are in progress. This cannot be exercised by the builder or his management staff when they are of on RDO's. Many



of the jobs subcontracted require labourers and they too cannot attend if away on RDO's. The Subcontractors run their businesses on a 5 day to 6 day working week and need sites to operate during this period.

Victoria: NO, I don't believe so, as there is a timeline is a job is to finished on time and if RDO's were a requirement it would not enable this to be done.

Victoria: No, it never works out that way and are more likely to leave early on a Friday than have a whole day off.

Victoria: no, it should be more flexible, we are not going forward, and productivity is going backwards. Too many rules and restrictions

Victoria: NO, The Building industry is a very tight margin industry and especially in the Residential Market, I don't think RDO's should even be applied to the residential industry.

Victoria: No. in a small business it is a momentum breaker and especially when it is attached to a long weekend or Easter.

Victoria: No. It might work for the profitable government, road infrastructure, apartment and multi storey building sector, but it is a real struggle to make a margin (profit) in the residential sector as it is, and the rates of pay are already too high. An RDO is like an automatic bonus and delays job progress.

Victoria: No. Many of the workers in this industry are self-employed and cannot afford to take a day off. In the residential sector they have a negative effect on productivity. It can be similar to a person in a workplace having a sick day. Things just don't function as well when a vital member of a team is not there.

Victoria: No. RDO systems have been phased out of most industries due to the being inefficient and uneconomic.

Victoria: No. Stupid idea

Victoria: No. Where contractors are used and mostly work across a number of sites at any one time, we need to provide as much opportunity as possible for them to do their job.

Victoria: Not appropriate at all. We need flexibility, we need people to turn up every day to work. Buildings are on a tight time line to be completed, RDO's would slow the process. There are already down times with rain days and public holidays. All are contractors, self-employed this needs to be maintained

Victoria: Not For small businesses

Victoria: on occasions

Victoria: RDO's would add a ridiculous cost to the domestic industry, just as in has to the commercial industry.

Victoria: With consumerism gone mad we all work on time constraints regarding contracts. Employees need to have a more flexible work environment that is consultative with their employer. Employees and employers must have the flexibility to set arrangements that work for their business and the employees' needs. With good communication and respect there is simply no reason why more flexible arrangements cannot work.

Victoria: Works good for me.

Victoria: yes

Victoria: Yes

Victoria: Yes

Victoria: Yes

Victoria: Yes

Victoria: Yes.

Victoria: Yes. The accrued 2 hours per week are sometimes good to have for wet days or quieter periods.

Western Australia: Has just become the norm and we find ways to make it work

Western Australia: NO

Western Australia: No

Western Australia: No not for residential construction

Western Australia: No, builders just want to book you in when it suits them they don't want to hear that you are one or two man down and can't offer a service

Western Australia: No. Work has to be done when it's there to be done. Not possible to schedule RDO's in our business.

Western Australia: Not anymore. An option is required. Our apprentice works on the RDO system but other fulltime employees are on an IFA as their choice so that they can work any hours over and above full time hours without a day off. They prefer the extra money.



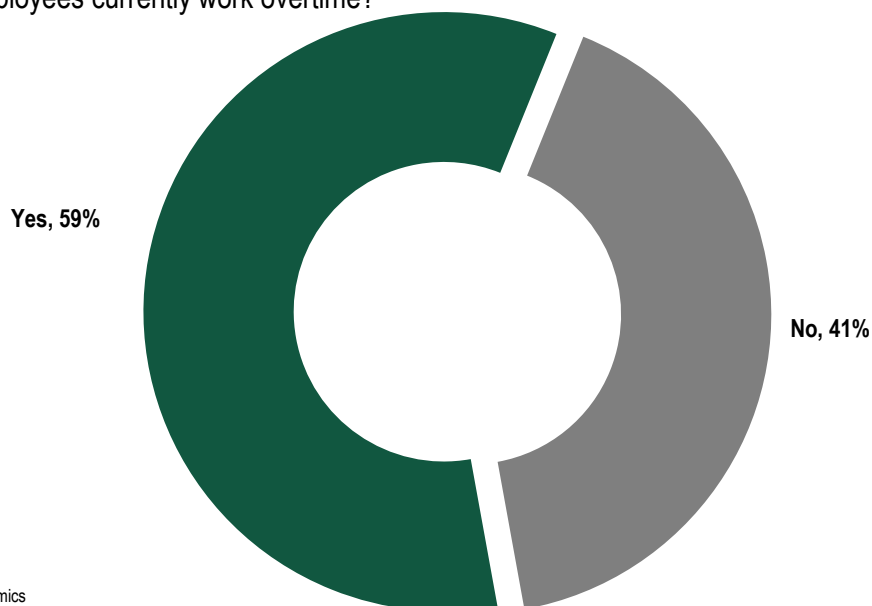
Overtime

Generally when an employee works more than their ordinary hours per week (for example more than 28 hours in a week, outside the plan of ordinary hours (for example, before 7am and after 6pm) or on weekends), an employer is required to pay the employee at overtime rates being, for example, time and a half or double time.

Do your employees currently work overtime?

59 per cent of respondents stated their employees currently work overtime and 41 per cent stated their employees do not.

Do your employees currently work overtime?



Source: HIA Economics

On a state by state basis:

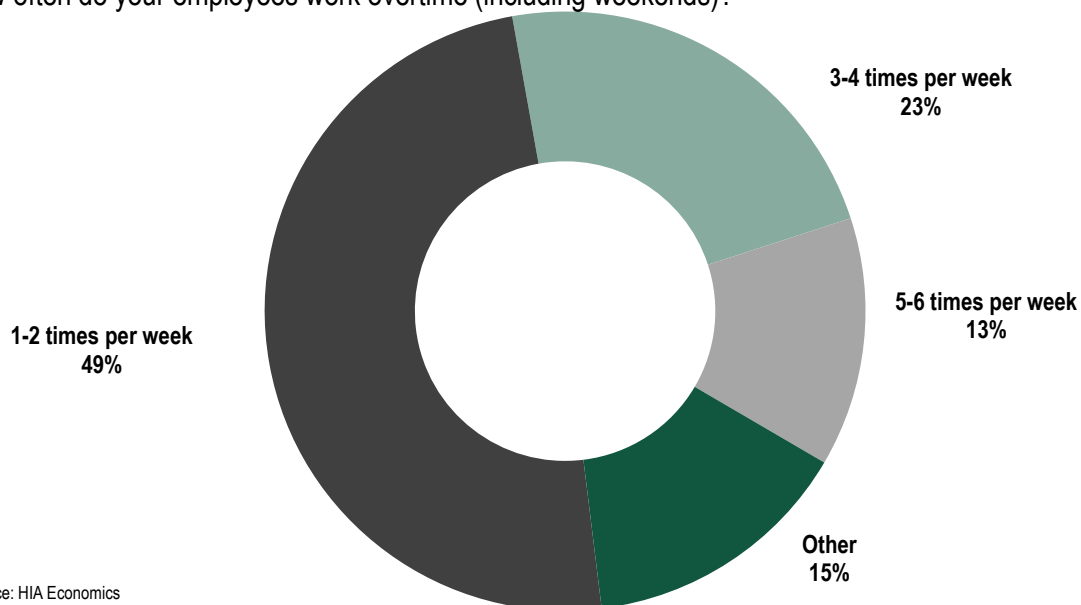
	No	Yes
Australian Capital Territory	20%	80%
New South Wales	42%	58%
Northern Territory	33%	67%
Queensland	31%	69%
South Australia	54%	46%
Tasmania	48%	52%
Victoria	44%	56%
Western Australia	39%	61%



How often do your employees work overtime (including weekends)?

Of the 59 per cent of respondents that stated they have employees' currently working overtime. 49 per cent of respondents stated their employees worked overtime 1-2 times per week, 23 per cent stated their employees for 3-4 times per week. 14 per cent stated other, 13 per cent stated 5-6 times per week and 1 per cent stated their employees worked overtime 2 times per month.

How often do your employees work overtime (including weekends)?



Source: HIA Economics

Other responses stated:

- 2 times per month
- a couple of times each month
- as need basis
- couple of hours a month not every month or every employee
- generally work a 40hr week so 2hrs per week
- just during heavy workload periods
- Mostly as required.
- occasionally as required
- once a fortnight
- once a month - rarely
- once every 6 months
- once or twice a month
- once or twice a month
- only when required
- only when work allows it
- 1-5
- 1 - 2 times per month
- 1-2 month
- rarely
- sometime
- varies
- varying
- when needed
- when required

On a state by state basis:

	1-2 times per week	3-4 times per week	5-6 times per week	Other
Australian Capital Territory	38%	25%	25%	13%
New South Wales	46%	24%	13%	17%
Northern Territory	0%	0%	100%	0%
Queensland	48%	27%	9%	15%
South Australia	64%	18%	18%	0%
Tasmania	73%	0%	18%	9%
Victoria	54%	17%	12%	17%
Western Australia	27%	55%	0%	18%



Has an employee ever requested that instead of being paid for the overtime worked it is accrued and taken as paid leave at another time?

Of the 59 per cent of respondents that stated they have employees' currently working overtime. 56 per cent of respondents stated an employee has not requested instead of being paid for the overtime worked it is accrued and taken as paid leave at another time, 44 per cent stated an employee has made the request.

Has an employee ever requested that instead of being paid for the overtime worked it is accrued and taken as paid leave at another time?



Source: HIA Economics

On a state by state basis:

	No	Yes
Australian Capital Territory	50%	50%
New South Wales	64%	36%
Northern Territory	100%	0%
Queensland	55%	45%
South Australia	55%	45%
Tasmania	36%	64%
Victoria	49%	51%
Western Australia	73%	27%



What would be the effect on your business if your employees could accrue overtime worked towards leave taken at another time?

Responses are provided in their entirety (84 per cent of respondents provided a comment)

Australian Capital Territory: Haven't thought about it but probably no effect if managed appropriately

Australian Capital Territory: Impact would be significant if they weren't available for more than 1 day when only working sporadically extra. I liken this to the RDO system which is nonsense. It doesn't hurt for staff to work extra when required to do so but that time should be afforded to them for something important or to get away earlier on a Friday afternoon. Plus, it becomes hard to manage.

Australian Capital Territory: Nil.

Australian Capital Territory: Rarely would an employee undertake overtime in our business as they are generally lazy and do not want to work - they would rather just get all the handouts!

Australian Capital Territory: That would be preferable as sometimes there is a lot of work all at once and sometimes the employees finish at lunchtime Fridays

Australian Capital Territory: There would be more down time as staff would be off

New South Wales: a build-up of money for me to much to pay out all at once.

New South Wales: Already take too much time off. Holidays, RDO's, wet weather, sick leave and Tafe if applicable. Not many productive days left in a year

New South Wales: As a small business. It could be quite crippling as the juggling of time v's leave is just another cost/time monitoring that we just don't have.

New South Wales: as long as leave is taken at a convenient time

New South Wales: bad

New South Wales: Be good

New South Wales: beneficial to both business and employee

New South Wales: Beneficial

New South Wales: Big effect we need staff on the ground working

New South Wales: Complete disaster. Either do the work that is required instead of screwing the office staff with work as they wish & allow clients to wait their turn

New South Wales: Could be ok

New South Wales: Difficult to schedule work

New South Wales: Disruptive

New South Wales: Disruptive and hard to manage with people wanting time off at inappropriate times and busy periods.

New South Wales: far too difficult in this size business.

New South Wales: Financial limitations... extra administrative burden

New South Wales: Greater flexibility.

New South Wales: Hard to program work depending on time accrued

New South Wales: Haven't really considered this option

New South Wales: higher cost to employ

New South Wales: Huge

New South Wales: I do not know. It would depend on the attitude of the employee whether he was flexible.

New South Wales: I feel this would affect productivity as we have a large amount of construction supervisors with tight deadlines and if additional leave was taken this could potentially increase our build times.

New South Wales: I think it would be fine if this was the case, however it is good to keep things separate.

New South Wales: It could help with delaying cash out, but long term would make no difference.

New South Wales: It only really works if we as an employer have control as to when time accrued can be taken - ie great if we can make it when quieter on work front. Not good if an employee is able to bank up big chunks of extra time to take off - again we do not have enough staff to enable us to do this.

New South Wales: It usually only happens in few months prior to Christmas when the employee is short of holiday pay. No real effect on business.

New South Wales: It would be a flexible arrangement

New South Wales: It would be difficult to track & fund as the billable hours are linked to a job.

New South Wales: It would be unaffordable.



New South Wales: It would become messy for production planning and reaching overall production targets.

New South Wales: It would compensate the Employer giving fee time-off to the Employee to meet appointments

New South Wales: It would reduce the cost of my wages and would be quite beneficial as we do a lot of overtime.

New South Wales: It would reduce the costs of meeting deadlines during very busy periods and allow employees to take time off when work is slow.

New South Wales: It would save some \$\$, since they take time off anyways when they need it.

New South Wales: It's hard in a small business to lose a man to accrued o/t as there aren't enough workers to cover when they are missing.

New South Wales: Loss of productivity and ability to properly schedule work

New South Wales: maybe help with cash flow from time to time but I am not certain without more consideration

New South Wales: mite be a good idea

New South Wales: More flexibility

New South Wales: Most are contractors so it does not affect us

New South Wales: Negative as I require everybody onsite at all times for work to run smoothly.

New South Wales: Negligible

New South Wales: Minimal

New South Wales: No effect as the may need time off for a family matter and will work extra hours to take the time off

New South Wales: none

New South Wales: None

New South Wales: None as this is pretty well how we operate

New South Wales: Not acceptable

New South Wales: Not good, I'd rather pay the overtime than loose manpower.

New South Wales: Not having labour when needed

New South Wales: Ok

New South Wales: Positive

New South Wales: Rather extra time off than extra dollars. Can find an extra pair of hands to help if

someone is away - can't find extra dollars for overtime.

New South Wales: Save money on penalty rates

New South Wales: Significant regards away from work - do then we need to employ others to take up void?

New South Wales: Strain on cash flow

New South Wales: That seems ok

New South Wales: That system would work better for both employer and employee

New South Wales: That would be ok, as long as it is in conjunction with the company and work. The employee would have to request a day off in advance

New South Wales: That would help with costing of jobs. Over time kills the profit margins etc. Sometimes it would help families have more time with Father / Mother.

New South Wales: That would make work outcomes more manageable

New South Wales: This could work but again adds to the office work. If an employee works many hrs o/t they would accrue a lot of time off for me this not productive as I would be shorthanded on those days & it could be constitutive days off which would be even harder. This could cause problems for other trades as the job would slow with lack of labour on site.

New South Wales: This is a better option it's not financially viable to have employees doing overtime

New South Wales: This would be our preferred option. As a small business, the cost of wages can be the difference between a profitable job or not.

New South Wales: This would not suit our business at all. We close down over the Xmas period for four weeks per year as most of our clients and building industry in general also close at this time.

New South Wales: Too much availability for leave thus leaving the company understaffed

New South Wales: Unsure

New South Wales: We are flexible with our staff leave times and generally agree to give time off that suites the employee not on a calendar day as the RDO system would have it. It would be better financially for us if time in lieu was taken as we cannot on forward the costs for overtime rates

New South Wales: We currently work under this system and it seems to work fine.



New South Wales: When the time off was taken would have to be negotiated, depending on the urgency of work on site.

New South Wales: Would be better

New South Wales: Would leave the business short at critical times as employers feel bad rejecting a leave form when the employee wants the leave to occur souring the relationship. As employees are highly skilled having people to replace during busy times is problematic.

New South Wales: Wouldn't really affect it

New South Wales: Yes this could be taken in quiet time's suit employee and employer

Northern Territory: Great

Northern Territory: Reduces the availability of manpower. Our employees prefer the monetary consideration.

Queensland: As it does not happen often it works fine for us

Queensland: As long as we were able to negotiate the timing of the leave with the employ I would not object to doing it!

Queensland: big imposition

Queensland: Extra book and hour keeping to follow how much time would be owing and having the funds available to pay these leave hours.

Queensland: Fair method no change

Queensland: Good

Queensland: Good for both parties

Queensland: I could offer more overtime and it would be more cost effective for the Company.

Queensland: I would find myself understaffed

Queensland: it works better as the industry is very seasonal. This way company can ride both busy and quiet period whilst still offering employee stability of ongoing employment.

Queensland: It would be very disruptive when the employees decided to take that leave. I would prefer to pay them for the hours they do.

Queensland: It would be very disruptive with more holiday time off which I could not manage

Queensland: It would help to even out our cash flow

Queensland: It would leave us short staffed and unable to complete jobs

Queensland: It would leave us short staffed on those days

Queensland: It would not affect us much as we rarely do overtime hours and most of our employees like the extra cash

Queensland: It would probably be easier on my cash-flow. It would need to be capped though. Another option is to work overtime and the money accrued is put towards tools of the trade.

Queensland: It would ruin the labour scheduling and time to complete projects. Overtime is rates destroy small business especially when employees manipulate their hours to get the higher pay rate.

Queensland: It would take more administration hours to ensure accurate recordings. Possibility of down time being more noticeable by having an employee absent for a whole day and managing when each employee took their accrued leave.

Queensland: little effect but a good idea

Queensland: Loss of manufacturing time

Queensland: Management are not interested

Queensland: nil

Queensland: No affect

Queensland: No effect

Queensland: No effect

Queensland: Not sure - probably would be better.

Queensland: Nothing

Queensland: That would just add another layer of record keeping in an already overly burdened system.

Queensland: The time taken would have to be at an agreed time so as not to interrupt the flow of work within the factory. I would prefer to pay overtime as it is worked.

Queensland: This flex-leave is very similar to most government and large organisation awards/pay agreements. This would be better as if they left early or wanted an extended holiday they can use banked flex-leave rather than take leave without pay once their leave entitlement is up. It would make it easier for the masses of tradies to understand they can take time off and still be paid whereas otherwise they may have had to take leave without pay (which sometimes ends up them asking for an employer loan when they realise they don't have enough saving to cover their mortgages whilst on leave). Flex leave (with the option to pay it out on request) would be beneficial for the whole workplace.

Queensland: this would be cost effective for this business



Queensland: This would be positive

Queensland: This would be very beneficial for our business! Overtime is such a great expense that we monitor it very closely. If they accrued hours towards time off it could be negotiated at a time that was beneficial for the employee and the employer.

Queensland: We think this is better for some of our workers, but not others. Some take the extra pay, some take time in lieu.

Queensland: With people taking holidays all the time it would have a similar effect as dealing with RDO's

Queensland: Would a benefit as long as it wasn't loaded time

Queensland: would place too much pressure on remaining staff to pick up the work.

Queensland: Would work well.

Queensland: Wouldn't affect the business or cash flow much.

South Australia: Costs and no workers

South Australia: Fantastic for both employer and employee. The employee would have a day off to run errand, doctors' appointments, tax accountant meetings etc without having to take time off during the work week and they would get paid for it. The employer would get more work with flexibility of working hours and then have warning that the employee would be having a whole day off

South Australia: Good

South Australia: Good, can suit work flow in high and low demand

South Australia: Great idea

South Australia: I totally agree with this system

South Australia: it would be a big inconvenience as some of my work needs to be done after hour

South Australia: It would be difficult to administer.

South Australia: it would impact our cash flow and managing jobs

South Australia: Nil

South Australia: nil affect

South Australia: No one would work overtime - they all want the money

South Australia: Not economically viable

South Australia: Not much

South Australia: Ok

South Australia: Our employees only work minimal overtime and usually prefer to be paid for it. If they know that more overtime is available, ie work a Saturday morning, sometimes they request to swap it for time off. If it remains as hour for hour that would be OK. Usually overtime is required to speed up progress on a site, time off defeats the purpose of them working the extra hours. Keeping records of time owed would create more work in the office.

South Australia: positive affect due to the nature of the business being feast or famine

South Australia: This is how I operate and I can't see it another way. 38 paid hrs a week any anything over that (between 7am and 6pm) into RDO account.

Outside normal hours then overtime rates would apply. Residential Carpenter on contract, some days are longer and some are shorter, some days effected by the weather, others have to work extra to be ready for next stage\trades. That flexibility is vital

South Australia: We allow it on a case by case situation

South Australia: we would close down the Company

South Australia: We would get rid of them really quick.

South Australia: Would be ok as long as they were not paid 17% leave loading on top

Tasmania: As long as it was discussed with the employer and a mutually agreed time was decided, then it would be ok. A choice would be better i.e. payment or leave.

Tasmania: Close business

Tasmania: Depends on number of factors - how much notice employee gives before taking time owed how much time employee takes at given time how much time accrues before employee requests cash in lieu

Tasmania: I think that would be a bonus to both employees and us as the employer as another way of managing flexibility within our work place

Tasmania: It could be beneficial to both parties.

Tasmania: It just compounds the fact that at some time we would have to give them the time off on top of their 4 weeks annual leave. This would make it very difficult to have continuity in residential market where we need to keep all homes under construction moving not only for client satisfaction but for cash flow.

Tasmania: It would be terrific. I have already addressed my workers regarding this and they are overwhelmingly in favour of it.



Tasmania: it would work better for both parties, as the job would be done and the employee would get more time off

Tasmania: More administration, more accounting - prefer to pay overtime (rarely have a need in our business) and cost it to job that is being worked at that particular time.

Tasmania: Negative effect

Tasmania: nil

Tasmania: None

Tasmania: None

Tasmania: None really, they don't work a lot of overtime. When they do want to bank their overtime as leave, they want to take it at our Christmas shut down period.

Tasmania: Not sure

Tasmania: Scheduling of staff is difficult in the construction industry because it doesn't follow a 9-5 pattern. Jobs may become more demanding at times therefore not having all staff available can make things difficult. Work can fall behind in time and therefore the impact of time in lieu would hit the bottom line. In short time in lieu would be and from experience is difficult to manage.

Tasmania: We prefer accrued time. It is hard to quote jobs allowing overtime in it.

Tasmania: Would be hard covering the extra time off with the limited staff

Tasmania: Wouldn't allow it to happen

Victoria: A more flexible work place works best for all concerned with no detriment to anybody.

Victoria: A Pain

Victoria: A small effect to the cash flow if it was paid out at one time. ie after a years accrual and at Christmas holidays.

Victoria: Accruing time off would not be an issue

Victoria: As long as this can be scheduled in beforehand, alternative supervision and or labour can be inserted to cover the absence of the time in lieu worker, and production can be maintained and sites can remain open.

Victoria: costly administration. Company to small, it would be like having flexi time.

Victoria: could lose a large percentage of the work force too often.

Victoria: Disrupt continuity of labour supply to manufacturing demand planning

Victoria: Does not fit our current arrangements

Victoria: Don't know at this stage

Victoria: Good

Victoria: Good impact - flexibility.

Victoria: hard to manage

Victoria: Huge Benefit, again the Residential Margins are too tight to be paying over time.

Victoria: I could work if flexible, as work fluctuates in the domestic building industry

Victoria: I don't know

Victoria: I prefer to operate this way, but leave it to an employee to choose.

Victoria: I would prefer if time was accrued to take at a time when the business can plan around that time, such as employing a sub-contractor to fulfil that role temporarily.

Victoria: I would prefer time in lieu instead on paying T1/2 or double time

Victoria: if agreed to by both parties would be OK

Victoria: In small amounts it would have no effect at all. If too much was accrued it could be hard to plan work ahead.

Victoria: Increased costs

Victoria: Is beneficial and in keeping with current practice

Victoria: it could make it difficult for planning and work flow

Victoria: it will be more difficult to manage the scheduling

Victoria: It would be better financially as paying overtime is a massive hit to any profit of a small margin

Victoria: It would give us more flexibility.

Victoria: it would involve an extra amount of paperwork to track

Victoria: It would make human resources management more difficult.

Victoria: keeping track of hours is a pain it is easier to pay the overtime as it is worked

Victoria: Lost productivity

Victoria: Nil

Victoria: Nil

Victoria: no

Victoria: no effect



Victoria: no effect

Victoria: No effect we are flexible to any option that makes our employees happy and we also have a lot of mums so time flexibility is good.

Victoria: no problem

Victoria: No problem as long as mutually convenient.

Victoria: No trouble doing that

Victoria: Not appropriate. The award has lost touch with the requirements within the domestic residential housing sector.

Victoria: not necessary just work the standard hours and go home.

Victoria: Not preferred. Workload would be difficult to manage.

Victoria: not suitable for my business

Victoria: Not suitable for small business

Victoria: not workable

Victoria: one should be paid for work carried out. There should be no ongoing affect

Victoria: Positive in that it enables our business to utilise labour when it is required at award rates and to grant leave when it will have the least impact.

Victoria: Production would be slowed down far too much

Victoria: This is how they are paid back for the extra hours but it is not billed at time and a half or double time, just the same. Extra 8 hours means at some stage they get time in lieu, day off or two half days, flexibility is what required, not is paying people extra of money for a few extra hours worked

Victoria: This is the current system used by our company and employees that work overtime.

Victoria: This would allow us to complete work in a timelier manner making use of good working conditions specifically during the warmer months. It would also give employees more flexibility in having time off rather the restricting this to the shutdown period over Christmas. It would also allow for employees to have additional time off when work is slow or the working conditions are not optimal.

Victoria: This would be beneficial

Victoria: This would help companies in their busy times and allow days off at slower times. I've heard some companies cut hours back down to three days a week, due to being slow, which we've not done.

Victoria: This would justify the existence current overtime rates which are ridiculously high. It would

also cause delay costs. We always avoid overtime as we simply make a financial loss for every minute overtime is worked. We only do overtime if we desperately need to get something complete.

Occasionally there are some employees who go slow knowing there is a deadline that must be met, and do this so that they can get overtime. It doesn't work for smaller businesses. Our customers won't pay us anything for overtime so why should we pay it. Occasionally we have workers who are from overseas. They cannot believe how high the overtime rates in this country are.

Victoria: too much down time

Victoria: Too painful to manage

Victoria: Very disruptive to labour availability

Victoria: We have an understanding, while the work is there we work, when the work is not there any days in lieu he can then choose to take off

Victoria: We would go broke.

Victoria: Would benefit greatly

Victoria: Would affect cash flow.

Victoria: Yes it would rather pay as they do the overtime.

Western Australia: An unprofitable business. No workers no business

Western Australia: cash flow issues, taking too much leave during the year affects our production

Western Australia: I would hold more off their money and in the case off builders not paying I might struggle to fulfil my duties on time

Western Australia: It would be better to have this option but that the employer gets to say yes or no to this option.

Western Australia: It would have a positive effect as the leave can be taken at a suitable time for both Employer and Employee and it would not affect the cash flow of the business dramatically.

Western Australia: Limited effect. Rostering would require some adjustments. Flexibility depends on amount of employees seeking leave at any given time.

Western Australia: Not sure

Western Australia: OK

Western Australia: Potential lack of staff. Would need to hire additional staff to cover the additional annual leave. Staff would mostly prefer OT at 1.5x rather than annual leave at 1.0x



Western Australia: Ripple effect, too many taking holidays at the same time hard to manage.

Western Australia: the need to replace somebody more often would be difficult if you did not have someone available and able to fit straight in to their position. Covering someone for their standard time off would already be difficult and to add more time to that would seem like added pressure unless their position was unskilled, eg site labourer.

Western Australia: This would be a disaster

Western Australia: two weeks of leave is required to be taken at annual shutdown, scheduling in extra leave would be very difficult, keeping track of the accruing extra leave in lieu of overtime would also be difficult.

Western Australia: Would not do it

Western Australia: Would not suit our business model as it would cause additional absences from work and make it difficult to schedule works

Western Australia: would prefer to pay the overtime as more time off is less productive

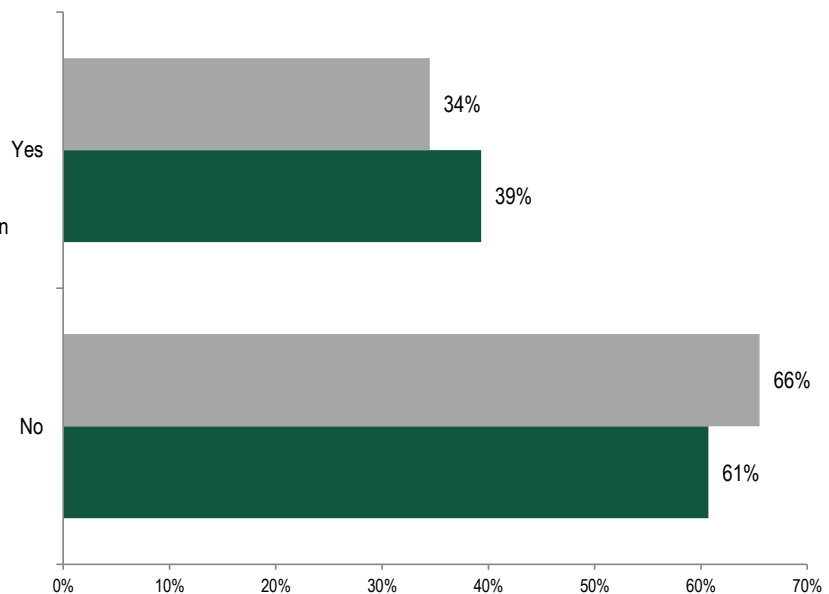
Would your answer change if:

66 per cent of respondents stated it would not change their answer to their employees accruing overtime worked towards leave taken at another time if for each hour worked, the employee was entitled to 1.5 hours or 2 hours paid leave i.e. the number of hours of paid leave accrued by an employee was equal to the rate at which the employee would have been paid had they worked the overtime. 34 per cent state it would change their answer.

61 per cent of respondents stated it would not change their answer if for each hour worked, the employee was entitled to one hour paid leave. 39 per cent stated it would change their answer.

Would your answer change if:

- For each hour worked, the employee was entitled to 1.5 hours or 2 hours paid leave i.e. the number of hours of paid leave accrued by an employee was equal to the rate at which the employee would have been paid had they worked the overtime?
- For each hour worked, the employee was entitled to one hour paid leave?



Source: HIA Economics



On a state by state basis:

Would your answer change if: For each hour worked, the employee was entitled to one hour paid leave?

	No	Yes
Australian Capital Territory	80%	20%
New South Wales	57%	43%
Northern Territory	67%	33%
Queensland	56%	44%
South Australia	71%	29%
Tasmania	62%	38%
Victoria	60%	40%
Western Australia	67%	33%

Would your answer change if: For each hour worked, the employee was entitled to 1.5 hours or 2 hours paid leave i.e. the number of hours of paid leave accrued by an employee was equal to the rate at which the employee would have been paid had they worked the overtime?

	No	Yes
Australian Capital Territory	60%	40%
New South Wales	73%	27%
Northern Territory	67%	33%
Queensland	60%	40%
South Australia	54%	46%
Tasmania	71%	29%
Victoria	62%	38%
Western Australia	67%	33%

Do you have any other comments about the ability of an employer and employee to agree to accrue overtime worked towards paid leave taken at another time?

Responses are provided in their entirety (37 per cent of respondents provided a comment)

Australian Capital Territory: It's now 7.30pm, I have been working since 6.30am this morning, and just about finished doing the book work for the day! I don't get overtime, I don't receive any days off in lieu of hours worked! I actually own this business - who's going to pay me overtime??

Australian Capital Territory: Too hard to keep track

Australian Capital Territory: We wouldn't offer overtime if they accrued loading on overtime as leave

New South Wales: Accrued paid leave gives the employee the ability to call in absent at short notice knowing they have time in Lue.

New South Wales: All overtime should be a standard rate unless the day goes over 12 hours.

New South Wales: As long as it suits both parties

New South Wales: As long as there is an agreement between the two parties then this would be OK.

New South Wales: Company operating under various awards so the availability to accrue leave as such would create problems with other staff possibly not having the same options.

New South Wales: Everyone should be allowed to be subbies. There isn't enough money in the residential industry competing against project homes having everyone at rate work. It is really, really hard to employ fellas on hourly rate to ensure quality in a boutique building firm.

New South Wales: good idea

New South Wales: Has to be lodged with the employer and a suitable time is agreed with both parties. Could not be taken without approval



New South Wales: I believe it is a good system and I have seen it work constantly in the public service however, the building industry is very different and it would depend on the personality of the workers. I know there would be workers who would suddenly take their accrued leave because the project they were working on was one they didn't like and didn't want to do.

New South Wales: I don't think it would work with our set up.

New South Wales: I would not want employees able to convert overtime to holiday pay on a regular basis. Would converted overtime accrue holiday leave loading? How would all of this be accounted for?

New South Wales: I would support such an idea. I think it would be a win win

New South Wales: If it was paid above the normal rate I would have to charge the clients. It would be difficult to convince them, they are not very likely to agree to it (my clients are all home owners).

New South Wales: It has to be fair for both parties

New South Wales: It is often the employee who asks for this arrangement and yet the award assumes that the employer will take advantage of the employee. The employees are perfectly capable of weighing up their options.

New South Wales: It should be an agreement negotiated between the employer and employee. More flexibility is required in general, the government always thinks it knows best. Look at the cost involved in government run departments, if they didn't have endless funds they would all go broke.

New South Wales: It would be a great opportunity for some individuals

New South Wales: Most of the guys are looking for money straight away.

New South Wales: No but generally, Australians work too many hours, which is bad for work / life balance and men's' commitments to take an active parenting role with their children. Flexibility of hours is crucial

New South Wales: No Comments

New South Wales: No problems, the more they are at work the better for the company. If we can do a better turnover the better for all.

New South Wales: Not acceptable in my business

New South Wales: Not sure

New South Wales: Our employees work overtime every day. It is already difficult to close 4 weeks per year.

New South Wales: Overtime is too expensive, we don't go there despite our employees wanting to work extra hours.

New South Wales: Paid leave would disrupt the flow of the job for a small building company.

New South Wales: Stupid

New South Wales: There are times when I think it is good and would like to be able to discuss with employee - eg if at the end of a project had to work a Saturday and then Monday taken off instead

New South Wales: Think it's a more flexible system, however we struggle some time with actual hrs paid vs actual hrs worked.

New South Wales: To be agreed by the two parties

New South Wales: We only allow them to have time off for each hour worked = one hour paid leave otherwise they are not allowed time off.

Northern Territory: they prefer money asap

Queensland: 1. Payment at excess rates is not consistent with other workplaces eg the government (the biggest employer in Australia) 2. Currently overtime pay does not attract an additional 9.5% super, if it was to be converted to FLEX-Leave and paid at a ratio of 1 hour paid leave, and then essentially it is paid at rates of 1.095% which is an ADDITIONAL 10% over the standard anyway. 3. If flex accrued leave is allocated at anything more than 1:1 hour, then employers simply would choose to pay overtime rates, or you will find most tradies will be cut off at 8 hours flat, which will heavily impact the industry as a lot of our staff would not survive or continue in the industry with only minimum hours - this would stunt the construction & building industry.

Queensland: have done it before when employees have needed forward payment of wages and have then worked extra hours to repay the forward payment

Queensland: I would agree to it if it was hour for hour

Queensland: I would like to test the theory, but know it will not suit all of our workers

Queensland: In our business leave is too much of a liability as it is. We have to force staff to take leave at times suitable to the needs of the business. More leave days would not be helpful.

Queensland: It doesn't work for our business



Queensland: It works if the employee can be trusted to keep a record of the time and then take time that is convenient for both parties, not just one or the other. I believe this would work in some situations with some employees and not with others. It should be left up to the individual worker and the employer as to whether they wanted to negotiate this type of arrangement.

Queensland: Mutual agreements

Queensland: No, overtime isn't an issue

Queensland: The challenge is that it's all about when it's taken, we can't put on people to just for a week if all the employees end up with 6 weeks holiday because of overtime

Queensland: The decision should be made between the employer and employee to suit their situation, not directed by an award

Queensland: The employment should be based on salary with reasonable extra hours incorporated in it. It comes down to whether as a country we want to be viable in the world economy as our labour costs are very high which in return makes businesses non-competitive in global economy. Consumers say they want local products but are unwilling to pay for it as the costs can be very high. That is not to say it needs to be slave labour but it is about finding a balance between cost of labour and financial viability for the businesses in the competitive market where the same labour force that is our consumer is not prepared to pay higher prices for goods. This impacts mainly on small to medium business which doesn't have resources of multimillion industries but form very large percentage of the employers.

Queensland: To be able to afford to continue to employ new people hourly rates should increase but overtime be paid at normal hourly rate

Queensland: Very hard to estimate labour on small jobs if overtime rates are paid, so prefer to use contractors and pay above the award rates to employees.

South Australia: I think it would be good especially if taken when work load slowed down

South Australia: I think it's a great option for small business

South Australia: It is good to give the employee and employer the option but we would like to see it remain at hour for hour.

South Australia: Leave should be much more flexible between employers and employees. Staff have varying needs at different times.

South Australia: Nope except that it wouldn't interest anyone here I don't think

South Australia: our employees do not work overtime

South Australia: Overtime is not an option. This company cannot afford it.

South Australia: That would be good

South Australia: The overtime hours should only be paid out at normal time earnings as the employee is being the benefit of a paid day off

South Australia: There is enough time taken by employees now without additional time taken off

South Australia: We reward everyone for work performed regardless of what time or day they do it in. We DO NOT force anyone to work when they do not want to.

Tasmania: Generally not in favour of this. As we are a small employer, labour flow is vital to our planning and we could not afford to have too many employees off at the same time.

Tasmania: I think it should be an amicable agreement between employer and employee.

Tasmania: If it works for the individual company then it should be an option.

Tasmania: if the employee wishes that should be the deal.

Tasmania: In my experience it doesn't work. You end up owing employees more and more time off in leave and this results in less progress which impacts the business growth and therefore your ability to employ more people.

Tasmania: Not great but I can work with it in my business

Tasmania: Strict guidelines about how long could be accrued before leave taken. Would only work in our business if taken within same pay period

Tasmania: The request for the leave needs to be mutually agreed and acceptable so as not to hinder the workings of the business.

Victoria: Admin issues

Victoria: again get paid for work done, other than that productivity suffers as history is showing

Victoria: As per my comment in question 16 it is a common sense win win for all concerned

Victoria: Being a small business it is hard to manage the production with annual leave and personal leave,



not alone adding another cost of administration for accrued overtime.

Victoria: Employers and employees must have the flexibility to work out their own arrangements without penalty. We are all adults working in an adult work with employee knowledge of their rights well documented. For this industry to continue to move ahead we have to work together as a unit to ensure that this industry continues to grow and prosper.

Victoria: I have already stated this. I think it is the only way forward. You need flexibility without incurring extra costs for the employer because they can't pass on the extra paid time

Victoria: I support flexible time management agreements like this, as there are some days when overtime has to be worked to complete a task, but on other days the work is finished earlier, so a system that takes into account the total hours worked in any pay period is much better.

Victoria: I think an hour of work for an hour of paid leave is fair. However there needs to be a limit on time so not to exploit workers. If a worker does a 60 hour week they need to be compensated financially. I would say perhaps the entitlement for an RDO can be accrued for leave at another time. So 2 hours per week, maybe more?

Victoria: I think it is a great idea, I think it is more beneficial to have time than a few hours of overtime. It would also good to be able to both with employees some in time and some in paid overtime.

Victoria: I think it is would be fine to accrue time to be taken at a mutually convenient time at an ordinary hours rate

Victoria: If you have a good relationship with the employees it's a good system

Victoria: It is an agreement between the employee and the employer. It's not unusual for employees arrange to work longer to accrue an extra day for say a long weekend, but should not be forced on employees or employers as in other cases employees need to leave early for family pickup reasons etc. A good employer is always prepared to be flexible to assist employees, within reason.

Victoria: it is totally between employee and employer, not for others to decide.

Victoria: it will kill small businesses

Victoria: It would make resource planning more difficult.

Victoria: Most people don't want to work overtime and will not work overtime regardless of the

incentives any more. So productivity is closely managed through developing more effective and efficient work systems. Work must be managed within realistic time frames accounting for people's abilities to complete the work in the prescribed time. We have deliberately stayed small to account for such 'people-based' work environment. You simply can't have both; high productivity turn over at the expense of staff satisfaction, or lower turnover rates with higher staff satisfaction.

Victoria: My employees get paid over the award and are expected to say back a finish works when required no accrued leave

Victoria: No. This system seems to work well at our business as it is a mutual agreement between employer and employee.

Victoria: Not suitable For Small businesses

Victoria: Over time should be paid at the standard hourly rate.

Victoria: Overtime rates should be reduced. We domestic builders are struggling to survive. So much so that many builders I speak to simply don't pay overtime, as it makes more sense to risk breaking the law. These sorts of things are not invented by people who live in the real world.

Victoria: Paying double time is very hard on our business

Victoria: Running a small business it helps if we are all flexible.

Victoria: Small business needs to be looked at differently to large Commercial and union sites as it is not affordable or cost effective.

Victoria: Stupid idea

Victoria: The overtime hours worked in our business are irregular and only small OT in hours (say 1/2 to 1 1/2)

Victoria: There needs to be plenty of notice given to the employer for this system to work. It could allow for more flexibility for the employee, which can help both parties.

Victoria: These arrangements should be allowable under modern awards if both parties are in agreement.

Victoria: This is not appropriate within our area of the industry

Victoria: Very hard to accrue time off as it never gets taken and better on the cash flow if paid at the time of work. If their pay goes up then liable to pay more on the accrued time as well.



Victoria: We work on a system of fair & reasonable I give time off & get extra work in a balance system

Western Australia: 1 hour equals 1 hour. No super for time in lieu taken. Taken at the discretion of the employer.

Western Australia: Both parties should be able to agree without the need for it to be legislated in the award. The award is complicated enough without adding to it. Question also regarding the annual leave loading - would that apply if the award stated the leave had to be equal to the rate the employee would have been paid for overtime? Computing nightmare.

Western Australia: Don't accrue pay what's due set the time cleaner

Western Australia: for each hour worked for only 1 hour entitled leave would be slightly worth agreeing to because of the monetary benefit but would need to be able to use by the employer when there is no work at other times for that employee.

Western Australia: I believe you should take what is your and be responsible with it

Western Australia: If agreed mutually when leave is to be taken, then would assist in providing more flexibility so that in quiet times the leave could be taken. Currently experiencing a quiet time, and would be helpful to retain staff for longer if they could take annual leave during the quiet months. So, yes would be a good help to provide that flexibility and if done at 1 for 1 then cost neutral.

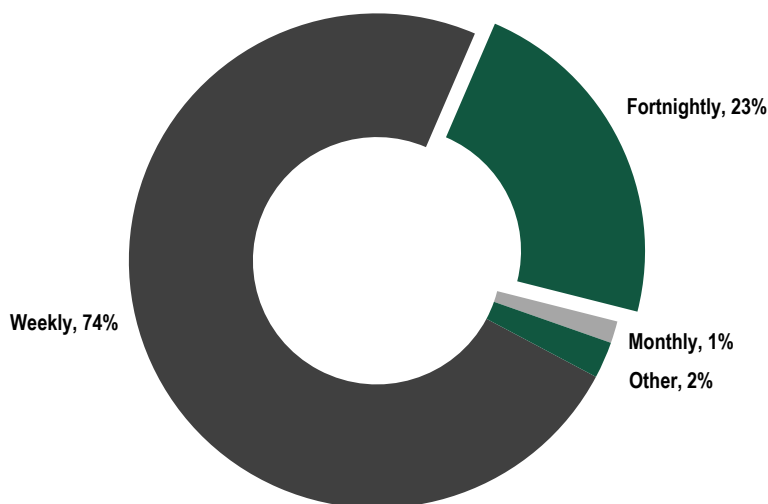
Western Australia: the accrued time would need to be capped to 38 hours

Western Australia: We only employ contractors

Do you currently pay your employees their wages:

74 per cent of respondents stated they currently pay their employees' wages weekly, 23 per cent stated wages were paid fortnightly, 2 per cent other and 1 per cent monthly.

Do you currently pay your employees their wages



Source: HIA Economics

On a state by state breakdown:

	Weekly	Fortnightly	Monthly	Other
Australian Capital Territory	67%	17%	0%	17%
New South Wales	87%	12%	1%	0%
Northern Territory	0%	100%	0%	0%
Queensland	68%	26%	0%	6%
South Australia	50%	50%	0%	0%
Tasmania	72%	28%	0%	0%
Victoria	71%	21%	4%	4%
Western Australia	67%	33%	0%	0%



Why do you pay wages:

Australian Capital Territory: As per the award

Australian Capital Territory: Better for cash flow and in accordance with award

Australian Capital Territory: Convenient

Australian Capital Territory: specified in award

Australian Capital Territory: To be in control of cash flow, plus they wouldn't last 2 weeks without money.

Australian Capital Territory: To work in with the quarterly Business Activity Statement (BAS).

New South Wales: Administration costs

New South Wales: always done this

New South Wales: Always have and employees prefer

New South Wales: Award

New South Wales: Award requirement

New South Wales: Awards and preferred company cycle

New South Wales: Balance of meeting employee demands re employment & trying to reduce admin time & costs

New South Wales: Because it is in their work agreement

New South Wales: Because they always broke

New South Wales: Best for employee

New South Wales: Better for cash flow

New South Wales: Both parties prefer it.

New South Wales: Cash flow

New South Wales: Cash flow reasons

New South Wales: Control of cash flow, ease of bookkeeping, and employee requirements

New South Wales: Convenient and easier for cash flow

New South Wales: Easier

New South Wales: Easier on the cash flow

New South Wales: easier to track and follow

New South Wales: easy

New South Wales: Easy to keep track of Part of agreement

New South Wales: Employee wants it that way and we have done it that way for over 20 years

New South Wales: Employees want to be paid each week

New South Wales: For employees' cash flow

New South Wales: Have always believed it to be best

New South Wales: have done so for 20+ years

New South Wales: HIA apprentices scheduled payments

New South Wales: It is appreciated by employees

New South Wales: It is easier for our cash flow. And most of our employees have mortgages or family.

New South Wales: It is the award and we always have

New South Wales: It's a requirement

New South Wales: it is what they receive under the award

New South Wales: It's the law

New South Wales: it's the law & they need to be paid weekly as they pay their rent weekly & aren't that good with controlling their funds.

New South Wales: It's the law plus it suit us & them

New South Wales: Regulations

New South Wales: Required

New South Wales: Requirement

New South Wales: Requirement. Plus it's better for the employees' cash flow.

New South Wales: So I don't have to spend my entire life in the office. We are a small business and I couldn't afford to be in the office doing pays weekly.

New South Wales: So I know where my business sits financially all the time

New South Wales: So my employees have money every week. In my experience if they were paid fortnightly they would spend it and be broke after the first week. They then ask for payment in advance or even fuel money.

New South Wales: Staff prefer this method

New South Wales: Suits employees

New South Wales: suits the employee

New South Wales: That is what our employees want

New South Wales: That is what the employee wants and we have a verbal agreement



New South Wales: that's the law

New South Wales: They cannot budget

New South Wales: They cannot go more than a week without being paid

New South Wales: This timeframe suits our cash flow

New South Wales: To comply with the Award.

New South Wales: To get it done

New South Wales: tradition

New South Wales: We find that our employees can budget better this way.

New South Wales: we just always have

New South Wales: What employee's demand

New South Wales: When we started the business the workload was so busy it was easier to only have to worry about the wages and timesheets once a fortnight instead of once a week. We continued to do that for the last 25 years. Our employees prefer it that way as well because they don't have to worry about their time sheets being handed in every week.

Northern Territory: A company set up 40 years ago wages were set up to be paid fortnightly. Operation has been based on that arrangement ever since including payments from principals.

Queensland: 1. we have to under the award. 2. Because our staff are not able to cope with their bills, commitments & budgeting on a fortnightly or monthly basis. Paying weekly is an administrative burden. It would be simpler to pay FN or monthly.

Queensland: At employees' request

Queensland: Demanded by employees

Queensland: Due to the award

Queensland: easier

Queensland: Easier for us and better for employee

Queensland: easier on cash flow and to keep track on hours

Queensland: Easier to manage cash flow

Queensland: Employee request

Queensland: Good for employees

Queensland: habit, the way we have always done it

Queensland: Helps with my cash-flow.

Queensland: I thought we had to.

Queensland: industry convenience

Queensland: It is requirement of the building award.

Queensland: It's the law

Queensland: Just do

Queensland: Law

Queensland: Less admin and better cash flow

Queensland: Manages our finances and cash flow better

Queensland: Most people find it easier to manage their finances weekly and I don't think it's fair to make them wait. I pay ourselves weekly so that we can take advantage of saving interest on our mortgage repayments by then paying them weekly.

Queensland: one less processing cycle, they are not hired under the onsite award as they are office staff

Queensland: So I can at least have one week that I don't need to worry about admin of wages.

Queensland: So staff have money week to week

Queensland: Staff have been conditioned to weekly pay cycles.

Queensland: That is the expected "normal"

Queensland: They demand to be paid weekly

Queensland: they live week to week.

Queensland: they need regular payments

Queensland: To make it easier on our workers/employees Subcontractors get paid 14 days from the date of the invoice as jobs usually take more than a week to 100% complete and we don't pay them until the job has been signed off by management

Queensland: Works with our systems

South Australia: Actually didn't realize it should be weekly. Employees are happy to be paid fortnightly. Fortnightly condenses the Administration time.

South Australia: Agreement between employer and employees and it is in the award

South Australia: Always have

South Australia: because some employees require weekly to pay their bills and buy goods

South Australia: Busy life, young family hard to sit down and do office work every week but wouldn't like to be paid monthly myself so middle ground I guess

South Australia: Cash flow

South Australia: cycle we started

South Australia: Have always done it this way. When set up I thought fortnightly was the industry



standard. When I worked in other industries fortnightly pay was always the case.

South Australia: I thought this was the requirement

South Australia: It suits our business needs and our employees' needs and it's 'always been this way'

South Australia: Keep good with the guys

South Australia: Payroll is a time consuming process. We have found it more efficient do payroll once a fortnight. It also allows for easier cash flow management. We have a written agreement with each of our employees that they are paid fortnightly.

South Australia: Time to do pay run

South Australia: We are required to do so

South Australia: We have found employees prefer the constant money steam. It means they don't need to budget with their money quite so much. If we pay fortnightly we have had employees approach us for early wage payment because they have run out of money.

Tasmania: agreed with workers

Tasmania: As per the award.

Tasmania: Because it's in the award

Tasmania: Because we have always done so and it's a requirement of the award.

Tasmania: Easier to keep track of cash flow

Tasmania: Employee request

Tasmania: Have done for over 10 years

Tasmania: It is a requirement

Tasmania: It works better for us from an administrative and cash flow perspective

Tasmania: It works for us

Tasmania: Most employees live from week to week and can't manage money.

Tasmania: No real reason.

Tasmania: Our employee's prefer this.

Tasmania: Staff wanted weekly

Tasmania: Works for both

Victoria: Always have and haven't seen the need to change as it is done electronically

Victoria: always have employees like it

Victoria: As per award

Victoria: As per award. Allows a real time analysis of our business.

Victoria: Award.

Victoria: because easy cash flow and easier for the workers to budget

Victoria: Better for employees to manage their income + better for our Cash flow

Victoria: bookkeeper comes in fortnight

Victoria: Cash flow and legality

Victoria: cash flow

Victoria: Cash flow projections.

Victoria: convenience

Victoria: convenience for both parties

Victoria: convenience for us both

Victoria: Easier

Victoria: easier for me to manage cash flow.

Victoria: Easier on the cash flow and provides for greater flexibility for the employee

Victoria: Easiest

Victoria: easy

Victoria: Employees cannot manage their money to last a full month

Victoria: Employees need regular payment to maintain lifestyle and bills

Victoria: employees' request

Victoria: Good balance between admin time for processing pay and employees getting regular payments.

Victoria: Help them budget

Victoria: I think that's the requirement and the employee prefers it

Victoria: It is an award requirement.

Victoria: It is better for the employer and the employee

Victoria: It is much easier on cash flow, the employees prefer weekly, some young employees cannot manage their finances fortnightly

Victoria: It suits their needs, like not getting paid on Friday, or getting paid monthly so as to help them save and budget better. It's up to them how they want it.

Victoria: Just easier to process payroll fortnightly and work out with the business cash flow.

Victoria: manage cash flow

Victoria: More convenient, cost effective



Victoria: More cost effective and easier to manage a smaller pay run.

Victoria: Most jobs take longer than a week to complete and easier to balance fortnightly than weekly.

Victoria: Not sure

Victoria: Only works part time and that is his preference

Victoria: Reduced overheads

Victoria: Regulation requirement.

Victoria: Requirement

Victoria: Routine

Victoria: Senior, technical and management staff gets paid monthly. Admin, Accounts, clerical staff get paid fortnightly. This is done based on their general ability to manage money.

Victoria: So that I avoid costs building up too high and getting out of control.

Victoria: Suits employees & required

Victoria: That's the system

Victoria: they like it that way

Victoria: to assist in the employees' cash flow it's expected.

Victoria: Try asked for that

Victoria: we just do & it's easier for them to budget themselves

Victoria: Why not?

Western Australia: as it is how the award informs us to pay our employees

Western Australia: As of legal reasons.

Western Australia: because I have to and for cash flow

Western Australia: Easier for both employee and employer to manage

Western Australia: No reason

Western Australia: They can be paid monthly but we think that is too long in between pays so we pay fortnightly.

Western Australia: We just always have

Did you know that under the Building and Construction General Onsite Award you are required to pay wages weekly?

56 per cent of respondents stated they knew they were required to pay wages weekly and 44 per cent stated they did not know they were required to pay weekly.

Did you know that under the Building and Construction General Onsite Award you are required to pay wages weekly?



Source: HIA Economics



On a state by state basis:

	No	Yes
Australian Capital Territory	17%	83%
New South Wales	39%	61%
Northern Territory	0%	100%
Queensland	47%	53%
South Australia	50%	50%
Tasmania	50%	50%
Victoria	45%	55%
Western Australia	56%	44%

If you do not currently pay wages weekly, what would be the effect on your business if you were required to?

Australian Capital Territory: I have the book keeper come in fortnightly so if we paid weekly that would impact negatively on our business and our book keeper.

Australian Capital Territory: Nothing.

New South Wales: A bit more 'paperwork' - but that's about all. It's difficult enough to get the boys to submit their time sheet on time fortnightly - weekly sounds like a nightmare.

New South Wales: Another cost to the small business which we cannot re-coup. We have 8 people working full-time (paid as casuals) so fall into an awkward category of not a sole trader, but not a big business. I find the home warranty reviews, insurance, taxation, monthly PAYG reporting, quarterly bas, taxable payments reporting payroll, long service, WHS onerous as is, without having to do weekly pays. Fair Work has to remember that most business' are small ones like us, not bloody Lend Lease's and Metricon's etc etc.

New South Wales: Cash flow wouldn't be as accurate

New South Wales: Increased administrative costs & cash flow difficulties

New South Wales: It wouldn't affect anyone but me. I do the wages. I would have to constantly pay the wages without time sheets though because the boys already whinge about getting them in on time fortnightly.

New South Wales: no

New South Wales: No

New South Wales: None

New South Wales: None

New South Wales: Nothing

New South Wales: Pay weekly

New South Wales: We pay weekly

New South Wales: We would incur additional admin costs & put extra time pressure on all staff

New South Wales: We would need to adjust our payroll cycle but if it was a requirement we would do it.

Northern Territory: Cash flow adjustments Admin work flow adjustments

Queensland: Additional admin costs

Queensland: creates larger workload at one time when processing

Queensland: employee knocking on my door with no money.

Queensland: I would close my business.

Queensland: More Admin and less cash flow

Queensland: more people

Queensland: Nil

Queensland: Nil

Queensland: Nil

Queensland: No change

Queensland: no change

Queensland: None

Queensland: not huge issue

Queensland: Nothing

Queensland: They are on contract with fortnightly pays

Queensland: We already pay weekly

Queensland: Would affect my cash-flow.

South Australia: Change of system ONLY



South Australia: Increase in unnecessary Administration time.

South Australia: Increased administration costs

South Australia: More un-necessary office work every week.

South Australia: no effect on business, on site all day. All office work/pays done in own time after hours, just more time in office away from family

South Australia: The biggest effect would be time lost in the office.

Tasmania: Cash flow would be affected as billing intervals are at best mixed and sometimes outside of a month.

Tasmania: It would add to the administrative burden of having to chase up timesheets each week and put pressure on our cash flow given that our contracts are predominantly stage based payments and not progress paid. Even if they are progress paid generally they would be monthly claims at best.

Tasmania: Just a lot more book work.

Tasmania: less time for office staff

Tasmania: None

Tasmania: We pay weekly

Tasmania: Zero

Victoria: Additional non-value added administration time.

Victoria: admin cost would increase for small business

Victoria: Already pay weekly

Victoria: cost me more I would have to pay the bookkeeper to come in each week to do the pay

Victoria: Extra costs, more overheads

Victoria: Increased overheads

Victoria: Just makes it more onerous on administration demands.

Victoria: more office work

Victoria: More work for HR.

Victoria: Nil

Victoria: no effect

Victoria: No real effect

Victoria: no, it would only affect the worker

Victoria: None

Victoria: none

Victoria: Nothing

Victoria: We pay weekly

Victoria: We would go broke. Clients rarely pay on time and we have to allow for this. Rarely the directors are in a position to draw an income for themselves, effectively using their wages as a quasi-overdraft to cover the periods of poor cash flow.

Victoria: Yes would mean an extra pay cycle and increased admin charge.

Western Australia: More time required in the office for book work

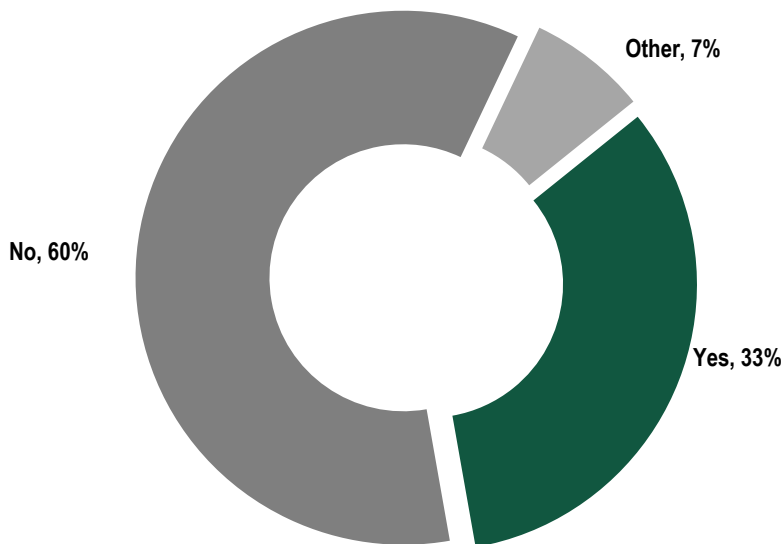
Western Australia: This would double the amount of time required to do pay runs and the payment officer would have to work every week instead of every second week. It would be more time and cost more money. We also have people on different awards, so it would have to change for all of them. That would be very inconvenient.



Do you provide a company vehicle to your award based employees?

60 per cent of respondents stated they did not provide a company vehicle to their award based employees, 33 per cent stated they did and 7 per cent stated other.

Do you provide a company vehicle to your award based employees?



Source: HIA Economics

Other responses provided:

- one vehicle only
- Only supervisors
- cars are provided as required
- Fuel allowance
- our apprentice has a vehicle but no other staff
- Site Supervisors only
- some
- some
- some
- Some of them
- some qualified workers
- Supervisor supplied ute
- to some employees
- To some not all employees
- we have a work vehicle

On a state by state basis:

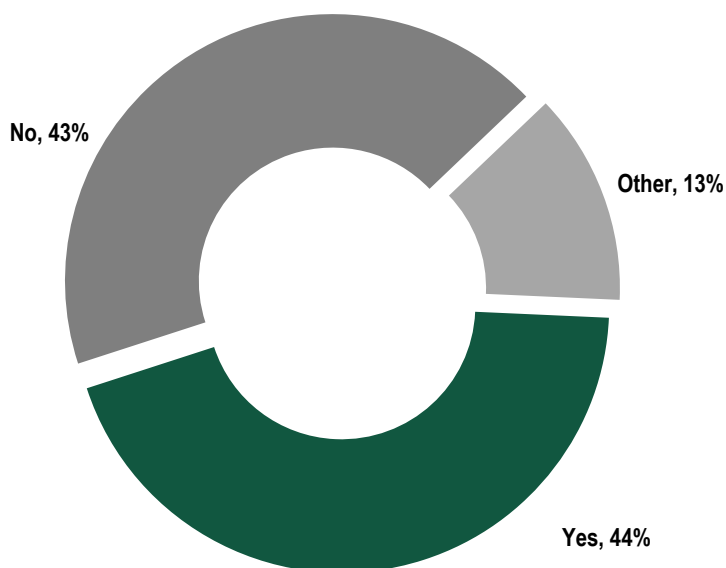
	No	Other	Yes
Australian Capital Territory	83%	0%	17%
New South Wales	62%	6%	32%
Northern Territory	0%	0%	100%
Queensland	53%	6%	41%
South Australia	38%	13%	50%
Tasmania	67%	6%	28%
Victoria	70%	7%	23%
Western Australia	22%	22%	56%



Do you cover the costs of fuel?

Of the 67 per cent of respondents who stated they do not provide a company vehicle to award based employees. 44 per cent of respondents stated they cover the cost of fuel for award based employees provided with a company vehicle, 43 per cent stated they did not and 13 per cent stated other.

Do you cover the cost of fuel?



Source: HIA Economics

Other responses provided:

- All travel together
- depends on distance from home to job
- if travelling out of town
- ones with a vehicle
- Only for our project managers
- only for supervisors without cars
- out of town
- pay travel allowance
- Payment per kilometre
- Relevant allowance paid
- sometimes
- Toll
- Travel allowance
- Travel allowance
- Travel allowance
- Travel allowance
- Travel Allowance is paid to employees that don't have a fuel card
- Yes but only to supervisor and for company tipper truck

On a state by state breakdown:

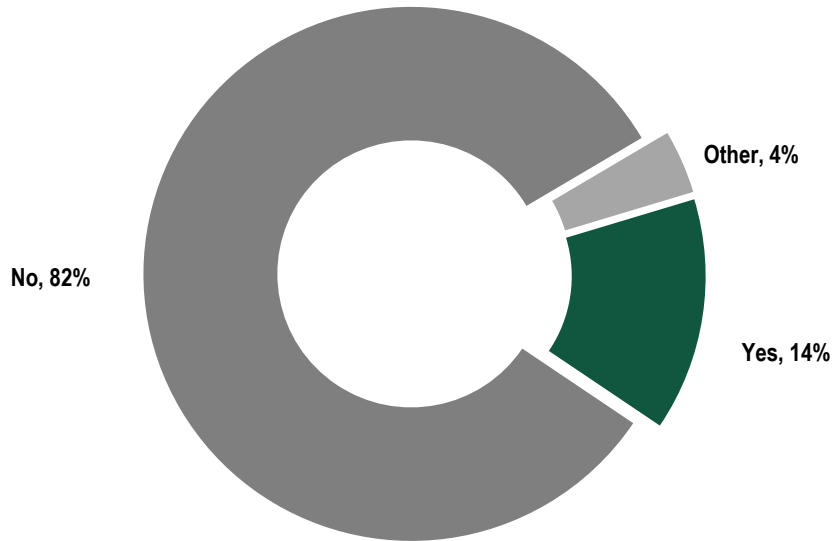
	No	Other	Yes
Australian Capital Territory	80%	0%	20%
New South Wales	34%	17%	49%
Queensland	50%	10%	40%
South Australia	25%	13%	63%
Tasmania	46%	8%	46%
Victoria	49%	12%	40%
Western Australia	25%	25%	50%



Do you provide a fuel card or reimburse your employees for the cost of fuel?

Of the 56 per cent of respondents which stated they did not cover the cost of fuel. 82 per cent stated they did not provide a fuel card or reimburse their employees for the cost of fuel. 14 per cent stated they did and 4 per cent stated other.

Do you provide a fuel card or reimburse your employees for the cost of fuel?



Source: HIA Economics

Other responses provided:

- only our project managers
- if using vehicle travelling out of town
- Sometimes

On a state by state basis:

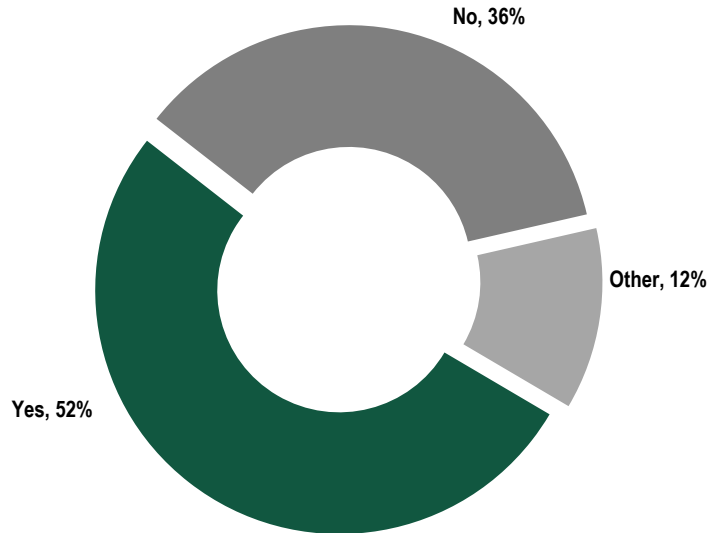
	No	Other	Yes
Australian Capital Territory	100%	0%	0%
New South Wales	75%	0%	25%
Queensland	75%	8%	17%
South Australia	67%	33%	0%
Tasmania	100%	0%	0%
Victoria	92%	4%	4%
Western Australia	0%	0%	100%



Do you provide your employees with all of the tools and protective boots necessary to carry out the work?

52 per cent of respondents stated they provide their employees with all the tools and protective boots necessary to carry out their work. 36 per cent stated they did not provide this equipment for their employees and 12 per cent stated other.

Do you provide your employees with all of the tools and protective boots necessary to carry out the work?



Source: HIA Economics

Other responses provided:

- as required or requested
- boots and some tools
- Depends on whether they are careless with the equipment. But we supply adequate gear.
- For specific safety purposes on a particular job.
- I don't supply boots
- I provide protective gear, and some tools however my employees are required to have some tools.
- I will when I get some, I already do for some contractors
- most 90% tools & PPE provided
- Not all items
- Not boots all others listed
- not boots, but other protective gear
- Only as per the award, not all tools as they get a tool allowance
- PPE is provided and basic tools, other tools are their own.
- Protective clothing and some tools. Employees prefer to buy their own power tools.
- provide tools, not boots
- Shared
- some are supplied, some have their own
- some but not all
- Some of tools
- some tools & all protective gear
- Some tools & equipment are provided.
- Some tools supplied. all safety
- sometimes
- They are paid a tool allowance, but only for their personal hand tools. We supply most.
- They purchase selected tools themselves
- Tool allowance
- Tools
- Tools
- Tools and uniforms but not boots
- tools only & pay allowance
- tools yes, boots no
- We provide all PPE, they provide some of their own tools
- we provide PPE, major tools and give them an allowance each pay towards their own tools
- weekly allowance
- work attire is their responsibility
- Yes some employees not all
- Yes to PPE and no to boots
- Yes to tools but they supply boots



On a state by state basis:

	No	Other	Yes
Australian Capital Territory	30%	0%	70%
New South Wales	31%	12%	57%
Northern Territory	33%	33%	33%
Queensland	56%	10%	33%
South Australia	25%	21%	54%
Tasmania	43%	14%	43%
Victoria	32%	12%	56%
Western Australia	33%	6%	61%



economics