



AUSTRALIAN HOTELS ASSOCIATION

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30 September 2019

The Associate to Justice Ross AO
Fair Work Commission
Level 4, 11 Exhibition Street,
MELBOURNE VIC 3000

By email: amod@fwc.gov.au;

Dear Associate,

RE: 4 YEARLY REVIEW OF MODERN AWARDS — HOSPITALITY INDUSTRY (GENERAL) AWARD 2010 (AM2017/59) AND RESTAURANT INDUSTRY AWARD 2010 (AM2017/57) – SUBSTANTIVE ISSUES

We refer to the above matters and the decision of a Full Bench of the Fair Work Commission (**Commission**) issued on 6 September 2019 ([2019] FWCFB 6092) (**Decision**), and the draft determinations published on the same date.

Restaurant Award – Meal Breaks

The AHA makes the following submissions in response to the submissions of United Voice dated 30 January 2019:

(i) Timing of the additional 20 minute paid break;

The AHA does not object to United Voice's proposal to retain the timing of the 'additional' 20 minute paid break to occur within the first five hours;

(ii) Introduction of facilitative provision;

The AHA supports the introduction of a facilitative provision in proposed clause 32.4. The AHA submits that the Commission's provisional view to

include this provision is appropriate in light of the exclusion of break from clause 7 of the Restaurant Award.

(iii) Meal not rostered/given, penalty provision;

The AHA agrees that proposed clauses 32.5 and 32.6 in relation to rostered breaks, and proposed clauses 32.7 and 32.8 in relation to breaks not given are repetitive and should be consolidated.

Furthermore, the penalty for breaks not taken at their rostered time or not given, would be more accurately expressed as **“50% of the employee’s ordinary hourly rate in addition the applicable hourly rate of the day”**.

(iv) Break following overtime

The AHA does not object to the inclusion of an additional 20 paid break in circumstances where an employee works more than two hours overtime. However, it is the view of the AHA that the description in column 1 of Table 2 in clause 32 be labelled **“Ordinary** Hours worked per day”. This will provide clarity as to which break entitlement applies in circumstances where overtime worked may take the overall hours worked above the threshold of 10 hours.

Restaurant Award – Draft Determination

The AHA submits that the draft determination issued on 6 September 2019 reflects the Decision.

Hospitality Award – Draft Determination

The AHA submits that the draft determination issued on 6 September 2019 reflects the Decision.

The AHA makes two suggested amendments in relation to styling and layout:

(i) Item 11 – we submit that the dot points relating to the averaging of hours be re-ordered from lowest to highest as follows:

- 76 hours...
- 152 hours...
- 160 hours...

(ii) Item 19 – to the extent that there is consistency in the styling in the award, we note the reference to *Table 1* in clause 39.5 is not in bold, while the reference to *Table 2* in clause 39.6 is in bold.

Deductions for breakages or cashiering underings

The AHA notes the Commission will be convening a conference in due course in relation to this matter and we look forward to participating.

Yours faithfully,



PHILLIP RYAN
National Director, Legal and Industrial Affairs