
Fair Work Commission: 4 yearly Review of modern awards

SUBMISSION

**4 YEARLY REVIEW OF MODERN AWARDS: (AM2018/26)
SOCIAL, COMMUNITY, HOME CARE AND DISABILITY SERVICES
INDUSTRY AWARD 2010**

FILED ON BEHALF OF:

- **AUSTRALIAN BUSINESS INDUSTRIAL**
- **THE NSW BUSINESS CHAMBER LTD**
- **AGED & COMMUNITY SERVICES AUSTRALIA**
- **LEADING AGE SERVICES AUSTRALIA LTD**

20 SEPTEMBER 2019

1. BACKGROUND

- 1.1 On 2 September 2019, the Fair Work Commission (the **Commission**) published a decision relating to the *Social, Community, Home Care and Disability Services Award 2010* (the **Decision**).
- 1.2 In that Decision, the Commission decided to vary the rates of pay for casual employees who work overtime and on weekends and public holidays and expressed a provisional view in respect of the transitional arrangements for the increase in respect of overtime, weekend and public holiday rates for casual employees.
- 1.3 Interested parties have been given an opportunity to comment on both the provisional view set out at [200] and [201] of the Decision, as well as on the draft variation determination at Attachment C of the Decision.
- 1.4 This submission is made on behalf of Australian Business Industrial (**ABI**), the New South Wales Business Chamber Ltd (**NSWBC**), Aged & Community Services Australia (**ACSA**) and Leading Age Services Australia Limited (**LASA**). We thank the Commission for the opportunity to comment on these matters and provide this submission.

2. PROVISIONAL VIEW

- 2.1 The provisional view at [201] and [202] provides that the Commission considers that the increase in overtime, weekend and public holiday rates for casuals should be operative from 1 December 2019. In respect of weekend and public holiday rates the Commission has indicated that this should be by way of transitional arrangements.
- 2.2 In accordance with the provisional view, from 1 December 2019 casual employees would:
- (a) receive 160% of the ordinary hourly rate (inclusive of the casual loading) for work between midnight Friday and midnight Saturday;
 - (b) receive 210% of the ordinary hourly rate (inclusive of casual loading) for work between midnight Saturday and midnight Sunday;
 - (c) receive 260% of the ordinary hourly rate (inclusive of casual loading) for work on public holidays; and
 - (d) be paid overtime rates in addition to their casual loading.
- 2.3 Then, from 1 July 2020 casual employees would:
- (a) receive 175% of the ordinary hourly rate (inclusive of the casual loading) for work between midnight Friday and midnight Saturday;
 - (b) receive 225% of the ordinary hourly rate (inclusive of casual loading) for work between midnight Saturday and midnight Sunday;
 - (c) receive 275% of the ordinary hourly rate (inclusive of casual loading) for work on public holidays; and
 - (d) be paid overtime rates in addition to their casual loading.
- 2.4 Our clients submit that the changes should take place from 1 July 2020, rather than from 1 December 2019.

- 2.5 This would allow businesses a reasonable period of time to organise funding and budgeting for this increased cost.
- 2.6 Many employers in this industry are not-for-profit and, in order to obtain funding, are required to strictly adhere to budgets for the financial year. If the changes are made in accordance with the provisional view, many businesses will not be able to sustain the increase in monetary costs for the time period from 1 December 2019 to 30 June 2020.
- 2.7 This increase in costs, whether it is small for some employers and larger for others, was not taken into account when budgets were prepared in advance of this financial year, and will therefore be unsustainable without additional funding.
- 2.8 In the course of these proceedings, the Commission undertook a survey of employers in the industry and prepared a document recording the results titled '*Survey analysis of the Social, Community, Home Care and Disability Services Industry Award 2010*' (**Survey**).
- 2.9 The results of the Survey recorded that of the enterprises that employed casual employees in the period of the survey:
- (a) around three quarters of those enterprises had their casual employees working Saturdays; and
 - (b) around 70 per cent responded that casual employees worked on a Sunday.
- 2.10 Given this considerable percentile of casual employees being engaged on the weekends, the introduction of these entitlements will be a significant cost imposition on businesses, particularly those that are solely reliant on funding.
- 2.11 For those reasons, our clients submit that the changes should be implemented from 1 July 2020 to allow businesses time to arrange funding for this cost increase.

AUSTRALIAN BUSINESS LAWYERS & ADVISORS

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On behalf of:

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- **the New South Wales Business Chamber Ltd**
- **Aged & Community Services Australia**
- **Leading Age Services Australia Ltd**