



Restaurant
& Catering

**SUBMISSION
4 YEARLY REVIEW OF MODERN AWARDS
ADDITIONAL COMMON ISSUES
AM2014/196 and others**

11 NOVEMBER 2014

Restaurant & Catering Industrial
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Restaurant & Catering Industrial

- 1) Restaurant & Catering Industrial is a Registered Organisation under the Fair Work (Registered Organisations) Act 2009 and represents the industrial interests of restaurants, cafes and catering businesses across Australia.

About the Industry

- 2) The industry turns over some \$20 Billion per annum and is looking down the barrel of 8+% employment growth in the next twelve months. This growth is on top of a sizeable attrition from the industry due to the large number of casual employees engaged.
- 3) Approximately 63% of the industry earns an average 2% after tax and the overall average is only 4%. It is expected profits will further deteriorate in the short term. The restaurant sector is 58% of the hospitality industry and some 62% of employment in the industry. The average employment per business is 8 employees.

Statement by Justice Ross

- 4) Restaurant & Catering Industrial notes the Statement by the Fair Work Commission President Justice Ross dated 1 October 2014 [2014] FWC 6904 seeking submissions by interested parties on common issues to be filed by 11 November 2014.

Part-time and casual employment clauses

- 5) Restaurant & Catering Industrial does not support part-time and casual clauses in Modern Awards being dealt with as a common issue matter. Restaurant & Catering Industrial seeks to make application in the Award Stage to vary the Part Time Employment provisions in the Hospitality Industry (General) Award, Restaurant Industry Award and Fast Food Industry Award to include Multi hiring and more flexible provisions to accommodate sporadic work patterns in the hospitality sector. Restaurant & Catering Industrial has no concerns with the current minimum engagement clauses in the above stated Awards and would seek to retain them. Restaurant & Catering Industrial does not believe the Fair Work Commission should adopt a “one size fits all” approach to these provisions as to do so may have serious unintended consequences. For these reasons Restaurant & Catering Industrial argues casual and part-time employee provisions should be dealt with at the Award stage to allow the industry specific arguments to be properly considered by the Fair Work Commission on an Award by Award process.

Additional Common Issues

- 6) At paragraph 15 of Statement dated 1 October 2014 the President seeks responses to proposed additional common issues as set out below.

Small Business Schedule

- 7) Restaurant & Catering Industrial supports the concept of a small business schedule in Modern Awards as proposed by Australian Business Industrial and the New South Wales Business Chamber subject to further consultation about the application of the schedule to hospitality industry awards. Restaurant & Catering Industrial supports the small business schedule being dealt with by the Fair Work Commission as an additional common issue.

TAPS Issues

- 8) Restaurant & Catering Industrial notes the administrative issues raised by the Association for Payroll Specialists (TAPS) appearing in some 70 Modern Awards. Restaurant & Catering Industrial does not support these issues as being dealt with by a Full Bench as common issue proceedings as it would appear TAPS have identified the issues of concern and arbitral proceedings would appear to be unnecessary.

ACTU domestic violence and family friendly clauses

- 9) Restaurant & Catering Industrial does not support the introduction of new award clauses dealing with social issues rather than workplace issues and questions the jurisdiction of the Fair Work Commission to hear such an application. It was the intention of Parliament that Modern Awards deal with workplace issues within the confines of s.139 of the Fair Work Act 2009. If the Fair Work Commission believes it has the jurisdiction to hear the ACTU claims then Restaurant & Catering Industrial has no objection to a Full Bench hearing the claim as a common issue.