



AHA Position

The current industrial relations regime is punitive on the 24/7 hotel industry, causing additional labour costs on evenings, weekends and public holidays and imposing unnecessary regulatory burdens on employers. The AHA calls for:

- A merit-based review of the Fair Work Act to ensure the Hospitality Award can be varied to reflect modern industry trading environment, specifically including a review of penalty rates for late nights, Saturdays, Sundays and Public Holidays.
 - The Annual Wage Review to be able to exempt industry sectors based on specific or peculiar economic conditions.
 - Amendments to the Fair Work Act to direct the Minimum Wage Panel to ensure statutory increases in employer superannuation contributions are offset against future wage increases from the Annual Wage Review.
 - A nationally consistent number of 11 public holidays per year attracting penalty rates under the National Employment Standards.
 - Employers to be able to offer Individual Flexibility Agreements as a condition of employment, extend their maximum duration to two years and enable non-monetary benefits to be considered in the Better Off Overall Test.
 - A consistent threshold for determining 'small businesses' for the purposes of unfair dismissal, adverse action and superannuation clearing house services to 50 employees, based on a head count rather than an FTE basis.
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Background

The hospitality industry is one of Australia's largest employing industries, employing some 640,000 people across the sectors of hotels (170,000), accommodation (90,000), casinos (20,000), clubs (100,000) and restaurants & caterers (250,000). In contrast to other industries such as manufacturing or mining, the hospitality industry employs people in every Australian state, city, town and electorate. The vast majority of hospitality businesses are small-to-medium-enterprises (SMEs) that are unable to engage in collective bargaining and rely on award conditions set by the Fair Work Commission.

Penalty Rates

The majority of customer demand for hotels falls outside the 9am to 5pm Monday to Friday period on which the current industrial system is based. Trading on evenings, Saturdays, Sundays and on public holidays is subject to a punitive penalty rate and overtime regime.

In a recent application to the Fair Work Commission (formerly Fair Work Australia) the AHA provided evidence of the impact of penalty rates of public holidays (loaded at 275%) including:

- The ordinary casual rate of a Food and Beverage Attendant Grade 2 is \$21.31 per hour while the public holiday rate is \$46.89 (Cook Grade 3 is \$23.23 and \$51.10 respectively).
- To reduce exposure to higher labour costs on public holidays, hotels reduce service offerings including closing restaurants for lunch and/or dinner, reducing access to room service, closing or reducing bar trading hours, limiting menu offerings and minimising the servicing of rooms and amenities.

- Casual employees (who make up 70% of the industry workforce) are often prevented from working on public holidays and therefore miss out on income they would otherwise have received.
- The reduction of services on offer impacts the ability of Australian hotels to compete against other international markets for tourist visitations.
- If penalty rates were not paid on these days, normal operations and services would be provided and the impacts highlighted above would be removed.

The impact of penalty rates of Saturday (150%) and Sunday (175%) are similar to the impact of public holiday penalty rates. The current Fair Work Act and its modern award objectives does not provide for adequate consideration of the core hours of the operations of the hospitality business and the cost of labour from a business perspective. Hospitality businesses are open and trading when others are closed. Accordingly, a review needs to be made of the award structure with particular focus on the impact of penalty rate and overtime loadings in the hospitality industry.

Public Holidays

The Award Modernisation process has created a national industrial relations system yet there is inconsistency between jurisdictions on the number of public holidays each year. Productivity and labour costs are impacted by the public holiday penalty rates loaded at 275% of the base rate. Accordingly, the Government should legislate to ensure a nationally consistent number of 11 public holidays per year attract penalty rates notwithstanding how many public holidays are proclaimed by each state or territory government.

Annual Wage Review

The failure of the Annual Wage Review process to consider special case arguments for particular industries (such as hospitality) that are not benefiting from the resources boom is an ongoing concern. Applying a universal wage increase has a disproportionate impact on employers in industries or geographic regions that have not seen economic growth.

The legislated increases in employer superannuation contributions will apply further additional costs to employers.

The Government must legislate to ensure these additional employment benefits are offset against future wage increases through the Annual Wage Review.

Superannuation

The AHA believes the process for setting default superannuation funds in modern awards should remain in the industrial relations system with reviews of default funds conducted by the Fair Work Commission when it reviews modern awards every four years.



The AHA calls for the legislated increases in employer superannuation contributions (from 9% to 12%) to be offset against annual award wage reviews to reflect the actual cost of employment. These increases should be deferred until the Fair Work Act is amended to direct the Minimum Wage Panel to offset the increased employer contributions against annual wage increases.