

MEMBER UPDATE

Confidential Attention: Licensee



23 February 2017

Fair Work Commission – Penalty Rates to be Reduced

Today the Fair Work Commission ('**FWC**') has handed down its long awaited decision on submissions made by our national body, the Australian Hotels Association ('**AHA**') to reduce the penalty rates payable on Sundays and public holidays.

The AHA's arguments for a reduction in those rates to stimulate hospitality businesses was accepted by the 5 person Full Bench of the FWC. Accordingly, penalty rates in the *Hospitality Industry (General) Award* ('**HIGA**') will be as per below:

Sunday

The new penalty rate to be payable* for **permanent staff** (full time and part time) on a Sunday is 150%. This is a reduction from 175%.

The benefit of this reduction is that for 52 Sundays per year, the cost of doing business is reduced, and businesses will be in a better position to consider their staffing arrangements.

The FWC has determined to leave the Sunday penalty rate for **casual** employees as they currently are – at 175%.

** The FWC did not provide a date of effect for the Sunday penalty rates reduction, and has invited submissions from interested parties on this. What this means is that the reduction is not an immediate one, and employers must continue to pay the current Sunday penalty rate.*

Public Holidays

A reduction to penalty rates on a public holiday has been granted, and the below new penalty rates will be payable from **1 July 2017**:

- Permanent employees (full-time and part-time): reduced to 225%. Currently the HIGA provides a penalty rate of 250%.
- Casual employees: 250%. This represents a reduction of 25% from 275%.

The benefit of the reduction to public holiday penalty rates will be welcome relief for hospitality employers who have been faced with increased public holidays being declared.

Thank You

While the FWC did not grant the AHA's proposed penalty rates in full, the above reductions are positive. This outcome was only achieved by our members completing surveys and penalty rates impact statements over a number of years. In particular, we acknowledge the commitment of Fiona McDonald (Timber Creek Hotel) and Ashleigh Wynn (Halikos Hospitality) who gave evidence and were cross examined at the FWC proceedings. These two members evidence is referred to in the decision and gave a good insight into operational issues and business costs around Sundays and Public Holidays.

Collective and Enterprise Agreements

Please be mindful that if you have an old Collective Agreement, or Enterprise Agreement (or similar) in place and that Agreement specifically states weekend and public holiday percentages within it, the above reduction to penalty rates will not impact on the Agreement. The reduction will only apply to those employers and employees covered by the HIGA.

The decision may, of course, lead you to consider the continued operation of your Agreement.

Clubs Award

There was no change to the Clubs Award and this may be subject to other proceedings being run by Clubs Australia.

Restaurants Award ('RIA')

A reduction to penalty rates on a public holiday has been granted, and the below penalty rates will be payable from **1 July 2017**:

- Permanent employees (full-time and part-time): reduced to 225%. Currently the RIA provides a penalty rate of 250%.

There was no change to the Sunday penalty rates as applied for by the Restaurant and Caterers Association. However, there will be a reduction in the span of hours attracting the 15% additional payment between midnight and 6.00am (currently this is applied from 10pm to midnight and then midnight to 7am).

Wage Rate Tables

The AHA (NT) are in the process of updating all our Wage Rate Tables to reflect these changes. We will notify Members via email when these have been finalised in the coming weeks.

If you have any questions regarding these changes, please contact the AHA (NT) office on 08 8981 3650.