

FAIR WORK COMMISSION ANNOUNCES CHANGES TO PENALTY RATES

On Thursday 23 February 2017, The Fair Work Commission (“**Commission**”) announced important changes to Sunday and public holiday penalty rates payable to employees working in specific industries in Australia. These changes will require amendments to be made to a number of Modern Awards, and will result in a slight reduction in the penalty rates payable for affected employees working on Sundays and public holidays only.

The penalty rate changes announced by the Commission apply only to employees covered by the following six Modern Awards:

- Fast Food Industry Award 2010;
- General Retail Industry Award 2010;
- Hospitality Industry (General) Award 2010;
- Pharmacy Industry Award 2010;
- Registered and Licensed Clubs Award 2010; and
- Restaurant Industry Award 2010.

The Commission’s decision means the total rate payable to affected employees on Sundays and public holidays will be as follows:

	Sunday Penalty Rate				Public Holiday Penalty Rate			
	Full-Time/Part-Time		Casual		Full-Time/Part-Time		Casual	
	Current Rate	New Rate	Current Rate	New Rate	Current Rate	New Rate	Current Rate	New Rate
Hospitality Industry (General) Award	175%	150%	No change	No change	250%	225%	275%	250%
Fast Food Industry Award*	150%	125%	175%	150%	250%	225%	275%	250%
General Retail Industry Award	200%	150%	200%	175%	250%	225%	275/ 250%	250%
Pharmacy Industry Award**	200%	150%	200%	175%	250%	225%	275%	250%
Restaurant Industry Award	No change	No change	No change	No change	250%	225%	No change	No change
Registered and Licensed Clubs Award	No change	No change	No change	No change	No change	No change	No change	No change

* Change applies to Level 1 employees only.
 ** Change applies only to work performed between 7am and 9pm.

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The changes announced to public holiday penalty rates will take effect from 1 July 2017. The changes to Sunday penalty rates are likely to be phased-in over a number of years, and the Commission has invited stakeholders to make further submissions in this regard.

Regrettably, many employers remain confused regarding their obligations to pay their workers penalty rates for work performed on Sundays and public holidays. This announcement is likely to cause those employers further confusion. The Commission itself noted there is widespread employer non-compliance with Modern Awards in both the hospitality and retail industries. Accordingly, we recommend employers obtain expert legal advice to ensure they are meeting all of their obligations.

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