



National Retail Association

MEDIA STATEMENT

February 14, 2011

Opportunity for genuine reform in retail award review

Fair Work Australia must create a retail award which fosters productivity and efficiency growth and reflects the needs of the industry as it reviews the modern award process, the National Retail Association said today.

NRA executive director Gary Black said the award modernisation process had failed to create a retail award geared to the unique circumstances confronting retailers.

He said Fair Work Australia now had the opportunity to correct the errors made in the first instance and make changes to the retail award which reflect the needs of the industry.

“Of critical importance to the retail sector are provisions which deliver flexibility in employment arrangements at the enterprise level and provisions which help lift standards of performance and productivity in the workplace,” Mr Black said.

“For the majority of retailers the modern award in the first instance led to higher labour costs and greatly reduced flexibility. The award review process now creates the opportunity for employers to achieve productivity offsets to reimburse them for the increase in labour costs which should never have eventuated.”

The NRA has lodged its submission on the award review with Fair Work Australia, proposing a major overhaul of the content of the modern retail award.

“The NRA believes the proposed changes are needed to fulfil the initial promise that the introduction of the new award would be labour cost neutral, and to inject some flexibility in the current one-size-fits-all instrument,” Mr Black said.

The main proposed changes are:

1. Reduction in the Sunday penalty from double time to time and a half;
2. The ability to use individual flexibility agreement to reduce the duration of the minimum shift;
3. The introduction of flexible part-time provisions;
4. Reduction of the casual loading from 25 per cent to 23 per cent;
5. Inclusion of an introductory classification (90 per cent at six months for new employees)
6. By mutual agreement, the use of an alternative remuneration system which provides for a base rate (lower than current rate) plus commission;
7. Removal of late night penalties (applicable Monday to Friday)



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Reduction in Penalty Rates

The reduction in the Sunday penalty rate and the removal of late night penalties will enable the retail industry to recover the labour costs increases wrongly awarded in the initial award. Additionally the inclusion of a time and a half penalty for Sunday work is consistent with the standard that prevailed in Queensland, NSW, and SA before the award modernisation process began. If penalty rates have to be included in the award, the rate should not exceed time and a half. The service sector in Australia now accounts for nearly 80 per cent of all jobs. The service sector is a seven-day industry, and the old manufacturing notion that factories close on week-ends and employment on week-ends must be discouraged is completely out of step with the modern Australian economy. Penalty rates have no place in the employment arrangements of the retail sector, but if they must remain their impact must be minimised. For many retailers, weekends are the busiest trading periods and customers expect them to be open. Many employees are only available to work on weekends, and for them the notion of “compensation” for weekend work is inapplicable.

Flexibility Agreements

The failure of the current individual flexibility agreements to allow an employer and an employee to agree to reduce the minimum casual engagement period of three hours provides a telling insight into the ineffectiveness of the current clause. If the individual flexibility agreement provisions are incapable of application for reasonable and common sense purposes – they should be removed or substantially changed. The preferable course however is to give employers the opportunity to change employment arrangements at the enterprise level in a way that reflects the preferences of both the employer and the employee.

Flexible Part Time Provisions

There is an urgent need to reform the part-time provisions currently included in the retail award. The retail sector relies heavily on part-time and casual employment. Labour cost efficiency in the service sector can only be assured with a substantial reliance on these forms of labour. There is nothing inherently wrong with the retailers engaging employees on a casual or part-time basis. Indeed there is, in part, a symbiotic relationship between the rostering requirements of retailers and the availability of many persons to work. Many people want part-time or casual employment and it is important that the retail award contain provisions which facilitate employment on this basis. The current inflexible and unworkable part-time provisions contained in the modern award fail to achieve any facilitative effect and generally act as a prohibition on the employment of persons on a part-time basis.



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Introductory rate

NRA wants to include in the modern award a new introductory rate applicable to persons entering the industry who have no prior experience. The proposed new provision reflects the high turnover rate in the industry and the contribution that the retail sector makes to the delivery of critical employability skills to young people transitioning from school to work. The variation is also necessitated by the decision of the Australian Government to strip the retail sector of training incentives and to withdraw funding for lower level qualifications. Small businesses in particular will be significantly impacted as they receive greatly reduced support for training young people. Many young people transition from school to retail to other careers of choice. The effect of these arrangements is that the retail sector carries a disproportionate burden in transitioning young people from school to work. Retail funds the upskilling of our young people to the benefit of many other employing sectors.

Alternative Remuneration System

NRA believes that the modern award needs to be varied to provide for the introduction of an incentive or performance-based scheme. NRA wants to allow employers and employees to agree to adopt an “alternative remuneration system”. Under the system employees will be guaranteed the weekly minimum wage but wages above the minimum wage and penalty rates will be foregone and replaced by incentive payments or commissions. NRA believes that the proposed scheme will deliver employers the flexibility to structure remuneration to allow for a fixed base pay component and an incentive component. This mechanism will achieve two goals – it will facilitate the attainment of higher performance standards and it will mean that high-performance employees will be more appropriately rewarded for their contribution. In the service sector customer service standards are paramount and labour regulation should be specifically geared to support the achievement of operational objectives.

The National Retail Association is Australia’s largest and most diverse retail association, representing large and small businesses across all areas of retail and hospitality.

Gary Black is available for media interviews.

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