

Post Modern Award changes to the General Retail Award

With the commencement of Modern Awards on 1 January 2010 there were a number of applications made by certain employer groups seeking amendment to the General Retail Award, 2010 which were subsequently determined by Fair Work Australia.

In a full bench decision of FWA last week, the applications were determined resulting in a number of changes to the Award which we briefly summarise below.

Definitions and Classifications

Application was made seeking to confine the classification of a Level 8 Shop Manager, reclassify a Shop Manager to Level 6 and reclassify an Assistant Shop Manager from Level 6 to Level 4. It was determined that it would be appropriate to confine and reclassify in line with the application.

Further application was made so as not to exclude retail activities conducted from seafood processing plants and this application was also granted.

Part-Time Employment

Application was made seeking changes to the part-time employment provisions.

The request contained a requirement to ensure that the hours of work and associated overtime and penalty arrangements in the retail, pharmacy and any similar industries do not discourage employers from offering additional hours of work to part-time employees or from employing part-time employees rather than casual employees.

FWA agreed to amend the Award to make it clear that when variations to part-time hours are agreed in writing, overtime is not payable for such agreed additional hours unless the total hours exceed 38 per week or the other limits on ordinary hours.

Hours of work

Variation was sought to the hours of work provisions for retailers who traditionally trade longer hours. The flexibility in hours in the Award is confined to newsagents and video shops.

It was determined appropriate that a late night penalty apply to compensate for the social inconvenience of such hours, but requiring normal trading hours to be worked only on an overtime basis, not appropriate.

The Award will be amended by allowing ordinary hours to be worked until 11pm when trading hours extend beyond 9pm Monday to Friday or 6pm on Saturdays and Sundays.

Sunday penalties

Application was made seeking to reduce the Sunday penalty rates for full time employees from 100% to 50% and for casual employees from 125% to 50%. The rates sought are reflected in NAPSAs applying in New South Wales and to Queensland exempt shops but are not generally reflected in other pre-reform awards and NAPSAs.

The Application was rejected by FWA in relation to full time employees however the casual rate for working on Sunday will be amended so that it is the same (100%) as for full time employees.

Uniform allowance

Application was made to either reduce the uniform allowance in the modern award from \$6.25 per garment per week to \$6.25 per week and \$1.25 per shift for part-time and casual employees or in the alternative, delete the provision in its entirety.

The Award will be amended to reduce the allowance level determined as being more in keeping with the critical mass of previous instruments.

Summary

The determination is reflective of the ongoing nature of the award modernisation process. Whilst a number of the applications made were rejected concerning rest breaks, public holidays and in part, Sunday penalties, Employers should nevertheless be encouraged by the flexible FWA response in granting a number of the applications made.

FWA mindfulness of current practices in the industry may be indicative of the approach to be taken in future determinations of the Tribunal and we shall continue to report on developments in this regard.

For further information or to discuss the impact of these changes on your business, please give me a call.