

ARA SUBMISSION

FAIR WORK COMMISSION MODERN AWARDS REVIEW 2023-24 (MAKING AWARDS EASIER TO USE)

FAST FOOD INDUSTRY AWARD 2010
HOSPITALITY INDUSTRY (GENERAL) AWARD 2020
RESTAURANT INDUSTRY AWARD 2020

EXECUTIVE SUMMARY

The Australian Retailers Association (**ARA**) welcomes the opportunity to provide a submission to the Fair Work Commission (**FWC**) on making three of the seven most commonly used awards easier to use.

This submission covers the *Fast Food Industry Award 2010* (**FFIA**), the *Hospitality Industry (General) Award 2020* (**HIGA**) and the *Restaurant Industry Award 2020* (**RIA**).

The ARA's submission to the FWC in respect of the *General Retail Industry Award 2020* (**GRIA**) is made under separate cover. The *Clerks Private Sector Award 2020* (**CPSA**) is used in the retail sector but is not addressed in either submission made by the ARA.

The ARA is the oldest, largest and most diverse national retail body, representing a \$420 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies our independent, national and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium sized members, who make up 95% of our membership. Our members operate in all states and across all categories - from food to fashion, hairdressing to hardware, and everything in between.

Opportunities to improve these three awards are well understood by key stakeholders and improvements have been made in recent years, particularly to the HIGA and RIA.

However, there are other opportunities to improve useability and flexibility of the FFIA that would reduce complexity and compliance risks for employers, create flexibility for employees and employers, and support our sectors' efforts to create jobs, drive wages growth and improve productivity.

BACKGROUND

On 12 September 2023, the Minister for Employment and Workplace Relations, the Hon Tony Burke MP, wrote to the President of the FWC, the Hon Justice Hatcher, indicating the Albanese Government's intent for the FWC to conduct a "targeted review" of the most commonly used modern awards.

In a Statement dated 15 September 2023, the President of the FWC determined to initiate an award review on the Commission's own motion under s 576(2)(aa) of the Fair Work Act 2009 (Cth) (the FW Act) to consider three

of the four areas outlined in the Minister's letter, including a review into making the seven most-commonly used awards easier to use.

POSITION AND PRINCIPLES

In principle, the ARA supports the submission made by the Australian Chamber of Commerce and Industry (ACCI) on the overall approach to the review of modern awards - in particular where the ACCI submission intersects the FFIA, HGIA and RIA.

The ARA has consistently expressed concern about the complexity of the modern award system, which is difficult for business to navigate and generally restrictive when it comes to flexibility for both employees and employers.

The ARA supports the guiding principles advanced by other stakeholders in designing an award system that suits the interests of retail industry stakeholders. These include but are not limited to:

- Award coverage should be clear and unambiguous.
- Awards should promote - not inhibit - access to secure work by allowing appropriate flexibility for employees, including part-time employees.
- Awards should also provide greater flexibility for employers.
- Awards should be user-friendly but so-called plain-English changes to awards should not have the effect of materially varying interpretation of an award.
- Awards should be readily understood and applied by all affected stakeholders.

In broad terms, we believe that the complexity of the awards is the main cause of confusion and compliance risks for employers. This complexity has been highlighted through the unintentional underpayment of wages that may not have occurred if awards were simpler and easier to use of employers, particularly small businesses.

RECOMMENDATION

In comparison to the GRIA, there are fewer opportunities to make the FFIA, HIGA and RIA easier to use. As such, the ARA recommends that the scope of this review – as it relates to these three awards – is kept as restrictive as possible.

However, there are a number of potential reforms to the FFIA that fall outside the scope of this review. In line with the President's Statement, the ARA will consider the appropriateness of applications to vary the FFIA.

The ARA and its members thank the Commission for the opportunity to provide a submission to this important review. Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.