

Summary of Decision

21 March 2014



Modern Awards Review 2012 - General Retail Industry Award 2010 - Junior Rates

(AM2012/196)

1. The *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* provides that the Fair Work Commission must conduct a review of all modern awards as soon as practicable after 1 January 2012 (the Transitional Review).

2. An application was made by the Shop, Distributive and Allied Employees Association (SDA) as part of the Transitional Review to vary the *General Retail Industry Award 2010* (the Retail Award). The SDA sought a variation to the Award such that 20-year-old employees engaged under the Retail Award would be paid the same rate of pay as an adult. Currently, the Retail Award entitles 20 year olds to 90% of the relevant adult rate.

3. Submissions were made and evidence was called by a range of parties including the SDA, the Australian Council of Trade Unions, the Commonwealth of Australia, the Australian Retailers Association, the National Retail Association, Master Grocers Australia Limited, the Australian Industry Group, Australian Business Industrial, the Australian Chamber of Commerce and Industry, the Electrical Contractors Association, the Australian Federation of Employers and Industries, the National Electrical and Communications Association and the Master Plumbers and Mechanical Services Association of Australia.

4. The submissions covered the Part 10A award modernisation process, the modern awards and minimum wages objectives, the *Junior Rates Inquiry 1999*, the cost impact of the claim, and the rates of pay to which 20-year-old employees are entitled under other modern awards and under various enterprise agreements in the retail industry. The evidence included statements and testimony by retail workers and employers. The Full Bench was also referred to a range of statistics, reports, government publications and survey material.

5. On the basis of the evidence and other material presented, it was concluded that:

- At the age of 20, a significant number of employees in the retail industry have at least three years of experience;
- There is generally little difference in the work and duties performed by 20-year-old and 21-year-old employees in the Retail Employee Level 1 classification under the Retail Award; and
- Most retail employees in this classification achieve a satisfactory level of proficiency in respect of their duties and responsibilities after about six months of employment.

6. In considering the SDA application, the Full Bench noted that the rationale for junior rates of pay remains relevant and age-based discounted rates remain justified. It also noted that the retail industry has one of the highest proportions of award reliant employees, and that

many employees in the industry are low paid, with 20 year olds being amongst the lowest paid.

7. The Full Bench considered that the Retail Award was not achieving the modern awards and minimum wages objectives, and that the discounted rate for 20-year-old retail employees did not provide a fair and relevant minimum safety net for these employees. It was therefore decided that the SDA application should be granted, in part, so that 20-year-old retail employees will be entitled to the adult rate of pay for the relevant classification, *provided* that they have worked for the employer for more than six months. Having regard to the cost implications for some employers, the new rates will be phased in from 1 July 2014 and 1 July 2015.

8. The new provisions recognise the work performed by experienced 20-year-old retail employees and provide an appropriate balance between the various considerations relevant to the setting of junior rates generally and in the context of the retail industry. The service requirement will ensure that 20-year-old employees receiving adult rates under the Retail Award have the knowledge and experience which comes from having worked for their employer for at least six months.

9. The Full Bench considered that the likely cost impact of the variation would be moderate and would not have a significant negative impact on business costs, the viability of retail businesses or employment growth. In this regard it is noted that the variation is based on the evidence presented in the case and considerations relevant to the Transitional Review and the specific claim for 20-year-old employees covered by the Retail Award.

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- *This statement is not a substitute for the reasons of the Fair Work Commission nor is it to be used in any later consideration of the Commission's reasons.*

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