



Chamber of Commerce
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7 March 2012

The Hon Justice IJK Ross AO
Fair Work Australia
GPO Box 1994
Melbourne VIC 3001

Submitted via email: amod@fwa.gov.au

Dear Justice Ross,

The Chamber of Commerce and Industry Queensland (CCIQ) welcomes the opportunity to participate in Fair Work Australia's Modern Awards Review 2012. CCIQ would like to provide overarching feedback to the Review on several issues that have been raised by our members in relation to a number of different awards.

The Federal workplace relations system now impacts on all private enterprises in Queensland. Accordingly it is essential to get the system right to ensure minimal impacts on businesses and the economy. CCIQ has received substantial feedback in recent times that demonstrates the current system has had a negative impact on businesses. This includes a reduction in their capacity to employ and retain staff, and a reduction in flexibility and profitability in workplaces. It is important that those matters within the modern awards that are causing negative impacts on businesses, employment and the economy are addressed as part of the modern award review.

Overarching comments

CCIQ recently provided two submissions to the Review of the Fair Work Act (attached for information). In the lead up to this Review, CCIQ undertook several surveys with Queensland businesses to gather feedback on Australia's industrial relations system. Concerns raised by businesses in relation to modern awards included:

- Difficulties in applying and interpreting the modern awards and award rates;
- Identifying the applicable modern award/s for a particular workplace;
- Applying and interpreting the transitional arrangements that apply;
- Unworkable clauses and obligations;
- Substantial cost increases resulting from a process that was meant to be cost neutral;
- Lack of assistance provided by the Fair Work Ombudsman in relation to interpreting awards;
- Not recognising the 24/7 nature of some industries ie tourism, retail, hospitality;
- Reduced flexibility in rostering and inability to employ juniors for short periods;
- Increasing employer obligations surrounding allowances;
- Cost increases not being offset by productivity gains;
- Substantial paperwork and record keeping requirements.

CCIQ would like to provide further comment on several key issues raised by Queensland businesses:

Penalty rates

Queensland businesses often raise concerns regarding the impact of penalty rates on their competitiveness and viability. A number of concerns have been raised including:

- Increased wage rates associated with working on weekends, week nights, public holidays etc are not profitable for businesses in particular industries ie tourism, hospitality, retail, agriculture (generally industries that operate 7 days a week);
- Monday to Friday is considered “normal trading hours”, which immediately disadvantages businesses that operate outside of these hours;
- Businesses are reducing their trading hours because it is unprofitable to operate during specific times when employment costs are substantially higher;
- Staff numbers in some businesses have decreased due to reduced trading hours;
- Inflexibility for those workers who prefer to work weekends, public holidays etc due to family or other commitments;
- The current system does not take into consideration long standing arrangements that have been in place in some industries ie retail;
- Customers are not willing to pay extra for services/products outside of “normal trading hours” ie a meal provided by a restaurant on a Sunday;
- The current regime is providing a disincentive for businesses thinking about expanding their operations to 7 days a week;
- The introduction of increased penalty rates has not been offset by productivity gains.

CCIQ is concerned about the impact of penalty rates, particularly for those industries that operate 7 days a week. There are serious concerns regarding the impact on the competitiveness of these businesses, in addition to the implications for employees/communities when these businesses are forced to close over weekends/public holidays. Action is urgently required from the current review to reduce the significant impact of penalty rates on businesses and enhance the competitiveness of industries that operate 7 days a week.

Payment of annual leave on termination

Discrepancies currently exist between the National Employment Standards (NES) and some modern award provisions regarding the payment of annual leave loading for employees who are paid out for annual leave on termination of their employment. The Fair Work Ombudsman has taken the view that annual leave loading is payable on termination, a view not consistent with long standing industrial practices in many industries. Claims are being made by terminated employees for outstanding annual leave loading which is creating uncertainties for employers, in addition to the further time and expense requirements associated with handling claims.

CCIQ is strongly supportive of a resolution being found to this issue to provide increased certainty for employers. CCIQ is supportive of the position that unless otherwise stated, annual leave loading is not payable on termination.

Additional considerations

Queensland businesses are also supportive of Fair Work Australia considering the following during the review of modern awards:

- Increase the scope in the current system to allow employers to reasonably meet the flexibility needs of their employees;
- Extend the maximum averaging period for weekly hours to 52 weeks (particularly for seasonally affected businesses);
- The allowances provided by employers to their employees needs to be reasonable and taken into consideration during annual wage increases;
- Minimum engagement provisions should be removed to eliminate the restrictions on employing juniors;
- Reduce the regulatory burden and record keeping requirements placed on businesses by modern awards;
- Increase the accessibility and useability of Fair Work Australia and the Fair Work Ombudsman by employers seeking information on modern awards, wage rates, transitional arrangements etc.

CCIQ is strongly supportive of improvements being made in the area of modern awards to ensure they meet the needs of modern workplaces and the flexibility required by employers and employees. If you have any questions regarding this correspondence, please do not hesitate to contact myself or CCIQ Senior Policy Analyst Leanne Connell on (07) 3842 2237.

Yours Sincerely



Nick Behrens
General Manager, Advocacy
Chamber of Commerce and Industry Queensland

Attached: CCIQ submission to the Review of the Fair Work Act
CCIQ supplementary submission to the Review of the Fair Work Act