

The Fair Work Commission has recently handed down its long-awaited penalty rates [decision](#) as part of its Review of Modern Awards.

A summary of the decision can be found [here](#).

Decision

The Commission has decision is to reduce weekend and public holiday rates in a number of retail and hospitality awards. The below table sets out the changes:

Award	Employment Status	Sunday (current)	Sunday (new)	Public Holiday (current)	Public Holiday (new)
Hospitality Industry (General) Award 2010	Permanent	175%	150%	250%	225%
	Casual	No change		275%	250%
Restaurant Industry Award 2010	Permanent	No change		250%	225%
	Casual	No change		275%	250%
General Retail Industry Award 2010	Permanent	200%	150%	250%	225%
	Casual	200%	175%	275%/250%	250%
Fast Food Industry Award 2010 (Sunday only change affects Level 1 employees)	Permanent	150%	125%	250%	225%
	Casual	175%	150%	275%	250%
Pharmaceutical Industry Award 2010 (Sunday change only affects 7:00am – 9:00pm)	Permanent	200%	150%	250%	225%
	Casual	200%	175%	275%	250%

Notes:

- (1) The [Registered & Licensed Clubs Award 2010](#) was also included in this decision, but the Commission decided not to change penalty rates in that award. There may be changes to this award in the future (including the Commission flagging that the award may be rescinded and joined into the *Hospitality Industry Award 2010*).
- (2) The Commission has also determined to shorten the span of hours that constitute night work, decreasing the span from ending at 7am to 6am in the *Restaurant Industry Award 2010*, and starting from 9pm to 10pm in the *Fast Food Industry Award 2010*.

Will other awards be affected?

The decision makes it clear that this reduction is not intended to be a 'test case' applicable to all industries. Any changes to awards in other industries would need to be made out based on the specific circumstances of the industry.

Transitional Arrangements

There will be some form of transitional arrangements (most likely a staged phasing-in process for existing employees), although they have not yet determined what these will be. There will be further hearings to discuss these.

Interestingly, the Commission will also be giving consideration to payment of “loaded rates”, which would mean an employee is paid a higher rate of pay for all hours worked (Monday through Sunday) but would not receive penalty rates. This will be considered after the transitional arrangements

Operative Date

The changes to Sunday and Public Holiday penalties are intended to commence on 1 July 2017. The changes to night shift definitions are intended to commence late March 2017.

Need more information

If you would like further information regarding these changes, or in relation to modern awards and the ongoing review of modern awards, please contact the team at Fair Work Lawyers.



Tom Earls
Partner
tom@fairworklawyers.com.au
m: 0409 939 010



David Putland
Partner
david@fairworklawyers.com.au
m: 0419 839 125

The information contained in this publication is general in nature and does not constitute legal advice. The reader should seek legal advice in relation to their own specific circumstances.
© 2017 Fair Work Lawyers. Current as at 23 February 2017.