



Effective Workplace Solutions

CLUB INDUSTRY CLIENT ALERT

CHANGES TO AWARDS DUE IN 2016

FEBRUARY 2016

To All of My Valued Clients,

This Client Alert is advise of the possible and likely changes to the *Registered and Licensed Club Award* that are due in 2016 as part of the 4 year Modern Award Review by the Fair Work Commission.

If you need further information in relation to this issue please do not hesitate to contact me.

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**Likely significant
changes to the Club
Industry Award in
2016 by the FWC**

**Penalty Rates
Annual Leave
Part-time provisions**

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SOLUTIONS**

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WHAT'S AHEAD FOR THE CLUB INDUSTRY AWARD IN 2016

Productivity Commission Report and Penalty Rates

In the days before Christmas, the Productivity Commission released its long-awaited report into Australia's workplace relations system. Not unexpectedly the Report provided a number of significant recommendations for consideration by the Federal Government. However overall, the Report suggested that our workplace relations system is in need of "*repair, not replacement*".

Of course the major feature of that Report was the recommendation that week-end penalty rates be reconsidered, suggesting that the Sunday penalties should be reduced to reflect that of the Saturday penalty in the hospitality, entertainment and retail sectors.

The Commission's Report said "*Penalty rates have a legitimate role in compensating employees for working long hours or at asocial times. However, Sunday penalty rates for hospitality, entertainment, retailing, restaurants and cafes are inconsistent across similar work, anachronistic in the context of changing consumer preferences, and frustrate the job aspirations of the unemployed and those who are only available for work on Sunday*".

Whilst this is good news for businesses in those sectors, the vehicle for bringing about these suggested changes will still lie with the Fair Work Commission (FWC). As predicted the Federal Government has already stated that changes to penalty rates is a matter for the FWC to alter the Awards that are relevant to these sectors. This approach is not unexpected, because not only is this issue politically charged, but the altering of penalty rates by legislation, would create a difficult political precedent.

Currently there are a number of matters before the FWC seeking to reduce penalty rates in the Awards in these sectors (including the RLCA) as part of the FWC's review of modern Awards. However, the comments and recommendations of the Productivity Commission to the FWC surely must carry significant weight in the submissions that employers make in these matters, in particular highlighting the independent nature of the Productivity Commission Report. It is expected that the outcome of those matters will be known in the first half of 2016.

Cashing Out of Annual Leave

This matter was reported in the middle of last year, and it was expected that the provisions to allow the cashing out of Annual Leave would have been inserted in to the RCLA by Christmas last year. However, The parties have been "bogged down" by the provisions dealing with the directing of an employee to take an amount of excess annual leave.

It is hoped that an outcome will be known by early 2016.

Part-time Provisions

The long running issue of flexible part-time provisions in the RLCA is likely to be determined in 2016, and substantive hearings into this matter have been scheduled to next month into this issue. The Union continues to object to these proposals, with what appears to be a preferred push for casual employment. However, there is considerable evidence that clearly suggests that many employees would prefer the security of part-time employment, and the proposed provisions are designed to encourage greater part-time employment in the Club industry.

As you would be aware, this matter has been “on-foot” in the FWC and a continual battle for the past 5 or 6 years since the modern Award was introduced. Hopefully the parties and the FWC will see the common sense approach and the matter is successful.

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