



MCKELL INSTITUTE

The Impact of the Fair Work Commission's February 23 Sunday
Penalty Rates Decision

February 25, 2017





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Background

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Overview

On 23 February 2017, the Fair Work Commission (FWC) ruled to reduce the rates of Sunday pay for workers in primarily in the hospitality, retail and fast food sectors. The proposed reductions, which if enacted will take effect from July 2017, outline major changes to four industry awards covering retail, hospitality, fast food and pharmacy workers (Figure 1.1). The Mckell Institute has previously conducted major research into the impact of penalty rates on Australia's economy, and has found that not only are penalty rates pivotal to the livelihood of individuals, but also Australia's economy more broadly. This report analyses the impact of the decision by the Fair Work Commission to reduce Sunday penalty rates. It does not analyse the impact on pharmacy workers, but instead focuses on the retail, fast food and hospitality sectors.

This report begins by outlining the key findings. Around 680,000 Australians are estimated to be working on awards that may be impacted by the proposed changes, with the majority of these workers being female. It also finds that the proposed changes will further incentivise a casualisation of the workforce. This report then outlines the impacts of the reduction of Sunday penalty rates for the affected awards. For many, the changes are dramatic: full time or part time retail workers who work a full 8-hour shift, for example, will lose at least \$72.90 per week. Annually, this equates to a \$3499 loss. The report then compares these losses against hypothetical annual incomes to ascertain the impact on lower income workers. For a student worker, or a part time worker who earns \$30,000 per year, the changes could result in a loss of up to 11 per cent of their annual income, if they are a part time retail employee.

Finally, this report estimates the total amount of Australian workers subject to the proposed changes. Through this analysis, it is estimated that 681,378 workers across the hospitality, retail and fast food sectors are not covered by Enterprise Bargaining Agreements (EBAs), and will be subject to the proposed changes to their respective awards. Additionally, this report notes that 55 per cent of these workers are female, and that the proposed Sunday rate change will further exacerbate the existing gender wage gap.

Key Findings

- Up to 681,378 Australians are currently working under awards that are subject to the proposed changes across the retail, hospitality and fast food sectors.
- Almost 1 in 2 retail workers are not on EBAs, and will therefore be impacted by the proposed changes.
- 55 per cent of those impacted by the proposed changes are female, and 45 per cent male.
- Full time and part time retail employees who work an 8-hour Sunday shift, and are subject to the proposed changes under their award, are the most severely impacted by the changes, and stand to lose at least \$72.90 per full Sunday shift.
- The proposed changes most severely impact those who earn the lowest incomes, particularly students and other workers who rely on weekend work.
- The proposed changes incentivize a further casualisation of the workforce, with full time and part time retail and hospitality workers being the most disadvantaged by the changes.

Part 1 - The Impact of the Changes to Individual Workers

Award	Full and part time	Casual
Retail	200 % down to 150 %	200 % down to 175 %
Hospitality	175 % down to 150 %	No change
Fast-food	150 % down to 125 %	175 % to 150 %
Pharmacy*	200 % down to 150 %	200 % to 175 %

Figure 1.1 – Proposed Sunday penalty rate reductions as released by the Fair Work Commission, February 23, 2016.

Overview of the Reduction in Pay

The reduction in Sunday pay for workers reliant on Sunday shifts is significant. Figures 1.2 to 1.4 use the minimum hourly adult wage under each award as a base figure to calculate the reduction in Sunday remuneration for both full time employees (FTEs) and part time employees (PTEs), as well as casual workers. It must be noted that the most adversely affected employees under the hospitality and retail awards are FTEs and PTEs.

Full time and part time hospitality workers who work full 8 hour shifts on Sundays will see a reduction of \$33.19 on their Sunday pay, while casual workers under the same award will see no reduction. For retail workers, it is also full time and part time employees who will be most adversely impacted by the proposed changes. For a full time or part time retail worker who works an 8 hour shift on a Sunday, they will lose a minimum of \$72.90 under the proposed changes, with casual workers under the same award doing the same shift losing \$45.56.

For fast food workers, the circumstances are reversed, with full time and part time workers set to have their Sunday earnings reduced by \$36.45, with casual workers in the fast food industry set to lose \$45.56 throughout an 8 hour Sunday shift.

It must be noted that the reductions in Sunday pay as outline in figures 1.2, 1.3 and 1.4 only apply to those remunerated as per the relative awards, and not to those who have separately negotiated EBAs in place at with their employer. However, as this report outlines, almost 700,000 workers are paid as per the affected industry awards, and are therefore impacted by the FWC decision on February 23.

HOSPITALITY AWARD

Full time & Part time employees			
	Hourly Wage	8 hourly pay	Reduction in Sunday Pay
Week day	17.7	132.75	
Sunday	30.975	232.3125	
Sunday as of July 2017	26.55	199.125	\$33.19

Casual Employees			
	Hourly Wage	8 hourly pay	Reduction in Sunday Pay
Week day	22.125	165.9375	
Sunday	38.71875	290.390625	
Sunday as of July 2017	38.71875	290.390625	\$0

Figure 1.2 – Reduction in Minimum Sunday Hospitality Rates

RETAIL AWARD

Full time & Part time employees			
	Hourly Wage	8 hourly pay	<i>Reduction in Sunday Pay</i>
Week day	19.44	145.8	
Sunday	38.88	291.6	
Sunday as of July 2017	29.16	218.7	\$72.90

Casual Employees			
	Hourly Wage	8 hourly pay	<i>Reduction in Sunday Pay</i>
Week day	24.3	182.25	
Sunday	48.6	364.5	
Sunday as of July 2017	42.525	318.9375	\$45.56

Figure 1.3 – Reduction in Minimum Sunday Retail Rates

FAST FOOD AWARD

Full time & Part time employees			
	Hourly Wage	8 hourly pay	<i>Reduction in Sunday Pay</i>
Week day	\$19.44	145.8	
Sunday	\$29.16	218.7	
Sunday as of July 2017	\$24.30	182.25	\$36.45

Casual Employees			
	Hourly Wage	8 hourly pay	<i>Reduction in Sunday Pay</i>
Week day	\$24.30	182.25	
Sunday	\$36.45	273.375	
Sunday as of July 2017	\$30.38	227.8125	\$45.56

Figure 1.4 – Reduction in Minimum Sunday Fast Food Rates

Modeling the Impact on Affected Workers

In deliberations over the remuneration of low income earners in Australia, it is vital that the context of the lives of many of these workers is understood and considered. Many workers affected by the proposed FWC decision on February 23 are full time workers whose career is in the retail, hospitality or fast food industries.

However, the retail, hospitality and fast food industries also employ a large number of part time and casual workers – many of whom are tertiary students or new parents returning to the workforce after breaks. For these workers, their weekend shifts often constitute a disproportionate percentage of their weekly and annual incomes. Many full time students, in particular, only work on weekends, with the reduction in Sunday rates acutely impacting them.

The following analysis models the impact of the proposed Sunday rate changes on workers under each award subject to change by the FWC decision on February 23, excluding pharmacy workers. It is assumed in the following models that workers are being paid the minimum adult hourly wage under the relevant award, and work 48 Sundays per year. The Sunday shifts modeled are 8 hours, minus a 0.5 hour break.

This analysis models the impact on workers in five different scenarios accounting for each affected award:

- Scenario 1: Full time hospitality worker who works 48 Sundays per year.
- Scenario 2: Full time retail worker who works 48 Sundays per year
- Scenario 3: Casual retail worker who works 48 Sundays per year
- Scenario 4: Full time fast food worker who works 48 Sundays per year
- Scenario 5: Casual fast food worker who works 48 Sundays per year

Scenario 1: FTE/PTE Hospitality worker who works 48 Sundays per year.

Hospitality - FTE/PTE

Current Sunday Pay	\$232.31
Annual Sunday Pay	\$11,150.88
Sunday Pay From July	\$199.12
Annual Sunday Pay from July	\$9,557.76
Annual Reduction from Changes	\$1,593.12

Hospitality - FTE/PTE

<i>Hypothetical Annual Income</i>	<i>% of Annual Income Lost</i>
\$30,000	5.31
\$40,000	3.98
\$50,000	3.18
\$55,000.00	2.89

Scenario 2: Full time retail worker who works 48 Sundays per year

Retail - FTE/PTE

Current Sunday Pay	\$291.60
Annual Sunday Pay	\$13,996.80
Sunday Pay From July	\$218.70
Annual Sunday Pay from July	\$10,497.60
Annual Reduction from Changes	\$3,499.20

Retail - FTE/PTE

<i>Hypothetical Annual Income</i>	<i>% of Annual Income Lost</i>
\$30,000	11.66
\$40,000	8.74
\$50,000	6.99
\$55,000.00	6.36

Scenario 3: Casual retail worker who works 48 Sundays per year

Retail – Casual

Current Sunday Pay	\$364.50
Annual Sunday Pay	\$17,496.00
Sunday Pay From July	\$318.94
Annual Sunday Pay from July	\$15,309.12
Annual Reduction from Changes	\$2,186.88

Retail – Casual

<i>Hypothetical Annual Income</i>	<i>% of Annual Income Lost</i>
\$30,000	7.289
\$40,000	5.467
\$50,000	4.378
\$55,000.00	3.976

Scenario 4: Full time fast food worker who works 48 Sundays per year

Fast Food - FTE/PTE

Current Sunday Pay	\$218.70
Annual Sunday Pay	\$10,497.60
Sunday Pay From July	\$182.25
Annual Sunday Pay from July	\$8,748.00
Annual Reduction from Changes	\$1,749.60

Fast Food - FTE/PTE

<i>Hypothetical Annual Income</i>	<i>% of Annual Income Lost</i>
\$30,000	5.832
\$40,000	4.374
\$50,000	3.499
\$55,000.00	3.181

Scenario 5: Casual fast food worker who works 48 Sundays per year

Fast Food – Casual

Current Sunday Pay	\$273.38
Annual Sunday Pay	\$13,122.00
Sunday Pay From July	\$227.81
Annual Sunday Pay from July	\$10,934.98
Annual Reduction from Changes	\$2,187.02

Fast Food – Casual

<i>Hypothetical Annual Income</i>	<i>% of Annual Income Lost</i>
\$30,000	7.29
\$40,000	5.467
\$50,000	4.374
\$55,000.00	3.976

The Proposed Changes Most Adversely Affect the Lowest Incomes Earners

Each scenario demonstrates that for those workers who rely heavily on Sunday shifts for their weekly and annual income, they will be most adversely affected. While the scenarios are hypothetical, they reflect workforce trends. Many workers in the retail, hospitality and fast food sectors rely on weekend work to supplement their income while undertaking other pursuits, such as tertiary education. These scenarios reflect that reality.

Part 2 – The Broader Impact of Reducing Sunday Penalty Rates

The Proposed Penalty Rate Changes Will Impact Up to 681,000 workers

The reduction in Sunday penalty rates will impact hundreds of thousands of workers across Australia. While many workers in the retail, hospitality and fast food industries are working under Enterprise Bargaining Agreements – and will not be immediately affected the February 23 decision – hundreds of thousands of Australians working in these industries do work as per the award.

Retail

<i>Total</i>	681,384
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Figure 3.1 – Total retail trade employees. Source: WGEA

Hospitality

Restaurants	290,142
Hotels and Resorts	68,358
Pubs, Bars & Nightclubs	85,363
Cafes & Coffee shops	71,957
<i>Total</i>	515,820

Figure 3.2 – Total hospitality employees. Source: IbisWorld

Fast Food

<i>Total</i>	153,332
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Figure 3.3 – Total fast food employees. Source: IbisWorld

This report estimates the breakdown of workers on awards and EBAs by assessing well publicised EBA negotiations between major employers in the retail, fast food and hospitality sectors.

It is estimated that of all retail trade workers, approximately 55 per cent of employees, or approximately 376,410 employees are covered by EBAs. This leaves approximately 304,974 workers – or almost 1 in 2 retail workers - working on awards that will be subject to the proposed changes.

Hospitality workers rarely tend to be covered by EBAs, with the vast majority of cafes, restaurants, hotels, pubs and nightclubs in Australia owned by individuals and not large chains, national or multinational corporations. It is therefore assumed that a substantial majority of hospitality workers are working as per the award. This report makes a conservative estimate that 75 per cent of hospitality workers, or approximately 361,074 workers, are working under awards, and will be affected by the proposed Sunday penalty rate changes.

The vast majority of Australian fast food workers are covered by EBAs. This report estimates that only 10 per cent of fast food workers – or 15,330 workers - are working under awards, with the remaining fast food workers covered by EBAs.

This report therefore equates that, in total, approximately 681,384 Australian workers are likely to be adversely impacted, to varying degrees, by the Fair Work Commission's decision to reduce Sunday penalty rates. It is difficult to ascertain who among these workers currently work Sunday shifts. Therefore, the 681,384 estimated figure of potentially affected workers relates to workers who may or may not work Sundays according to their individual circumstances, but would be affected by the decision if they do work on Sundays.

Estimated Total Impacted by Sunday Penalty Rate Decision

Retail	304,974
Hospitality	361,074
Fast Food	15,330
Potentially Affected Workers	681,378

Figure 3.4 - Estimated Total Impacted by Sunday Penalty Rate Decision

<i>Estimated Total Impacted by Sunday Penalty Rate Decision</i>	<i>Female</i>	
Retail	304,974	177,800
Hospitality	361,074	185,230
Fast Food	15,330	7864.29
Total	681,378	370,894
Total Female	370,874	54.43 (%)

Figure 3.5 - Estimated Total Impacted by Sunday Penalty Rate Decision with specific impact on the female workforce.

The Reduction in Sunday Rates Will Disproportionately Impact the Female Workforce

Those impacted by the February 23 FWC decision are disproportionately female workers. Each of the three primary industries affected – retail, hospitality and fast food – are highly *feminised* industries, which means they are populated with more female workers than male workers. This is particularly evident in retail, in which 58.4 per cent of the workforce are female.¹ The Workplace Gender Equality Agency estimates that among ‘accommodation and food service’ workers, which is the category that covers hospitality and fast food workers affected by the February 23 penalty rate decision, 51.3 per cent of the workforce are female, compared to 48.8 who are male². Thus, 54.68 per cent of the workers impacted by the proposed Sunday penalty rate changes will be female workers.

¹ <http://data.wgea.gov.au/industries/76>

² WGEA, 2016.

Broader Social and Economic Trends Should Be Factored into FWC Deliberations

The reduction in Sunday rates is additionally unwarranted considering the broader trends occurring within the Australian economy and society, particularly for low income earners. The McKell Institute's 2016 report *Choosing Opportunity* identified many of the challenges associated with being a low-income earner in Australia, such as owning a home, and being able to afford basic goods and services. A chief cause of these burdens for low income earners is the near-stagnant wage growth Australia has experience in recent years, with wage growth in 2015-16 was as low as 1.8 per cent³. Low wage growth exacerbates many of the challenges facing the Australian community, and the decision to reduce the pay of some of Australia's lowest paid workers only increases the existing difficulties of low-income workers already impacted by endemic low wage growth.

The Proposed Changes Will Lead to a Greater Casualisation of the Workforce and Increase Job Insecurity

It is alarming that the most adverse impacts of the proposed Sunday rate changes will occur to FTEs and PTEs in the retail industry (who are not currently covered by separate EBAs). FTEs and PTEs in retail working as per the award rate will experience a reduction of at least \$72.90 on a full 8 hour Sunday shift, compared to casual workers on that same award, who will see their pay reduced by \$45.56. This is a significant difference, and further discourages employees from pursuing more secure full time or part time work, pushing them instead towards casual working arrangements that are less secure, but offer higher remuneration.

For many workers, casual work can be an attractive and flexible option. But for others, casual work means less job security, less annual work breaks, and a more tenuous relationship between them and their employer. These factors result in enhanced job *insecurity*, which can lead to financial stress and poor health outcomes. The McKell Institute's 2016 report,

³ Australian Bureau of Statistics, 2016.

Choosing Opportunity, found that workplace stress costs the Australian economy approximately \$10 billion per year – with 23.2 per cent of workplace stress related to financial stress. By reducing workplace stress, *Choosing Opportunity* found that the Australian economy could benefit by around \$1.9 billion annually. By disproportionately reducing penalty rates for full time and part time workers, many employees will feel coerced into casual work, therefore increasing job insecurity which is a key determinant of workplace stress. This report suggests that the proposed FWC changes to Sunday penalty rates have failed to adequately consider this externality when arriving at their decision on February 23.

The Changes May Impact Future EBA Negotiations

The proposed changes outlined in the February 23 decision by the FWC scheduled to take effect from July 2017 will only impact workers currently paid as per the award that covers their workplace. Many workers – particularly in retail - will continue to be paid as per the EBA negotiated between their employer and employee representative. However, while the proposed Sunday rate changes may not immediately impact those on EBAs, it signals an economy-wide devaluation of Sunday penalty rates, and may serve to undermine employer outcomes in future EBA negotiations. This report notes media reports on February 25 2017, suggesting major supermarket chains are considering renegotiating EBAs to factor in the changes that have been proposed by the FWC⁴. This refutes the notion that workers not immediately impacted by the FWC decision are not indirectly impacted in the long term. The decision creates uncertainty over all affected industry workers' future wages, exacerbating financial stress for employees in the low-earning industries impacted.

⁴ Sydney Morning Herald, February 25, 2017. "Big retailers to seize on penalty rate changes to push through new deals with workers".

References

Australian Bureau of Statistics, 2016. '6291.0.55.003 - Labour Force, Australia, Detailed, Quarterly, Nov 2016', Accessed online 24 February 2017:
<http://www.abs.gov.au/ausstats/abs@.nsf/mf/6291.0.55.003>

Australian Bureau of Statistics, 2016. 'December key figures', Accessed online February 24 2017: <http://www.abs.gov.au/ausstats/abs@.nsf/mf/6345.0/>

Fair Work Commission, 2017. 'Summary of Decision – Four Yearly Review of Penalty Rates', Accessed online 24 February 2017:
<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/2017fwcfb1001-summary.pdf>

IbisWorld Australian Industry Reports, Accessed online 24 February 2017.
<https://www.ibisworld.com.au/>

The McKell Institute, 2016. 'Choosing Opportunity'. Accessed online 24 February 2017
<http://mckellinstitute.org.au/wp-content/uploads/2016/09/mckell-fairer-aus.pdf>

Sydney Morning Herald, February 25, 2017. "Big retailers to seize on penalty rate changes to push through new deals with workers". Accessed online February 25 2017:
<http://www.smh.com.au/business/workplace-relations/big-retailers-to-seize-on-penalty-rates-change-to-push-through-new-deals-with-workers-20170224-gukqfl.html>

Workplace Gender Equality Agency, 2017. 'Food and beverage services summary for 2016', Accessed online 24 February 2016: data.wgea.gov.au/industries/95

Workplace Gender Equality Agency, 2016. 'Retail trade summary for 2016', Accessed online 24 February 2017: data.wgea.gov.au/industries/76