



## **Fork in the Road**

*The impact of the two major parties'  
penalty rate policies in the 2019 Federal Election.*

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April 2019

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## Introduction

On February 23 2017, the Fair Work Commission ruled in favour of cutting Sunday and public holiday penalty rates for awards in the hospitality, fast-food, retail and pharmacy industries<sup>1</sup>.

The Mckell Institute has explored the impact of reducing penalty rates since that initial ruling in 2017, focusing on the aggregate national, state and electorate level costs to workers associated with the proposed changes.

Since the 2017 ruling by the FWC, debate around penalty rates has been front and center in the national policy conversation. The 45<sup>th</sup> parliament – the most recent parliament – is now dissolved, with a Federal Election scheduled for May 18, 2019. During the 2019 Federal Election, the two major parties’ policies regarding penalty rates have emerged as a significant point of distinction.

This discussion paper aggregates the likely impact to workers’ pay under the policy of the incumbent Government, and that of the Federal Opposition, over the forthcoming three-year parliamentary term. When forecasting the Sunday and penalty rate incomes expected to be received over the forthcoming parliamentary term in the industries subject to penalty rate changes, it identifies that award-reliant weekend workers will likely receive \$2.87 billion less under existing policy settings, supported by the Government, compared to under the policy settings proposed by the Federal Opposition.

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<sup>1</sup> <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/2017fwcfb1001.pdf>

## The Two Major Parties' Penalty Rate Policies

The incumbent Coalition Government has made no commitment to amending the scheduled changes to penalty rates since 2017, and has additionally voted against proposals in parliament to do so<sup>2</sup>. There is no indication that the Government, if re-elected, will oppose or amend the full implementation of the penalty rate reductions as scheduled by the FWC. The Government's policy is, effectively, the status quo.

The Federal Opposition, in contrast, have proposed to 'reverse the cuts to penalty rates' within the first 100 days of Government<sup>3</sup>. This would suggest that, if elected on May 18 2019, a new Labor Government would aim to legislate a reverse in the FWC's ruling by no later than August 26, 2019. It is possible that a newly elected Labor Government would work as a priority to legislate the proposed changes prior to June 30, 2019, after which the next phase of the FWC's penalty rate reduction will be implemented.

This discussion paper seeks to quantify the aggregate impact to award-reliant workers' wages under the two different policy scenarios offered by the major parties at the Federal Election.

It aggregates the expected reduction in workers' pay over the course of a re-elected government's forthcoming three year term, assuming the respective policies of the parties are adhered to. The results tabled outline the expected national impacts, and the costs per state and territory.

A methodological breakdown is detailed in the Appendix.

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<sup>2</sup> <https://www.theaustralian.com.au/nation/politics/senate-votes-to-reverses-penalty-rate-cuts/news-story/bb966fd0a03831b570cc90e106ee08fa>

<sup>3</sup> <https://www.alp.org.au/policies/labors-plan-for-higher-wages/>

## The McKell Institute's Previous Research on Penalty Rates

This report continues the McKell Institute's ongoing research on penalty rates, dating back its seminal work on the policy area in 2015. The McKell Institute has since published numerous major works and discussion papers exploring the importance and economic value of penalty rates in Australia's economy, and the consequences of the FWC's 2017 decision. These works include:

- *The Impact of Penalty Rate Cuts on National Growth Trends, 2017.*
- *Assessing the Impact, 2017.*
- *Counting the Cost, 2017.*
- *Unfair Burden, 2017.*
- *The Impact of the FWC's February 23 Penalty Rates Decision, 2017.*
- *The Importance of Penalty Rates for Our Health Workforce, 2016.*
- *The Economic Impact of Penalty Rate Cuts, 2015.*
- *The Economic Impact of Penalty Rate Cuts on Rural NSW, 2015.*
- *Who loses when penalty rates are cut? 2015.*

## Key National Findings

Finding 1: Throughout the three year period of the forthcoming 46<sup>th</sup> parliament, workers will collectively receive **\$2.87 billion** less in penalty rate pay under a re-elected Coalition Government than a Labor Government, when factoring in each party's policy preferences.

Finding 2: Nationally, workers in the **fast food** industry are expected to receive **\$303.8 million** less in penalty rate pay under a re-elected Coalition Government than under a Labor Government over the life of the forthcoming parliament.

Finding 3: Nationally, workers in the **hospitality** industry are expected to receive **\$837.15 million** less in penalty rate pay under a re-elected Coalition Government than under a Labor Government over the life of the forthcoming parliament.

Finding 4: Nationally, workers in the **retail** industry are expected to receive **\$1.64 billion** less in penalty rate pay under a re-elected Coalition Government than under a Labor Government over the life of the forthcoming parliament.

Finding 5: Nationally, workers in the **pharmacy** industry are expected to receive **\$84.86 million** less in penalty rate pay under a re-elected Coalition Government than under a Labor Government over the life of the forthcoming parliament.

## Key State Findings

Finding 6: Over the life of the forthcoming parliament, workers in **Queensland** are collectively expected to receive **\$573.7 million less** in penalty rate pay under a re-elected Coalition Government's than under a Labor Government.

Finding 7: Over the life of the forthcoming parliament, workers in **New South Wales** are expected to receive **\$899.26 million less** in penalty rate pay under a re-elected Coalition Government than under a Labor Government.

Finding 8: Over the life of the forthcoming parliament, workers in **the ACT** are expected to receive **\$45.69 million less** in penalty rate pay under a re-elected Coalition Government than under a Labor Government.

Finding 9: Over the life of the forthcoming parliament, workers in **Victoria** are expected to receive **\$750.74 million less** in penalty rate pay under a re-elected Coalition Government than under a Labor Government.

Finding 10: Over the life of the forthcoming parliament, workers in **Tasmania** are expected to receive **\$65.02 million less** in penalty rate pay under a re-elected Coalition Government than under a Labor Government.

Finding 11: Over the life of the forthcoming parliament, workers in **South Australia** are expected to receive **\$209.65 million less** in penalty rate pay under a re-elected Coalition Government than under a Labor Government.

Finding 12: Over the life of the forthcoming parliament, workers in **Western Australia** are expected to receive **\$299.52 million less** in penalty rate pay under a re-elected Coalition Government than under a Labor Government.

Finding 13: Over the life of the forthcoming parliament, workers in **Northern Territory** are expected to receive **\$23.56 million** less in penalty rate pay under a re-elected Coalition Government than under a Labor Government.



## Overview of penalty rate changes

The FWC's February 23 2017 penalty rates decision planned a phased in reduction of Sunday and public holiday penalty rates for award-reliant workers in the hospitality, fast food, retail and pharmacy industry. In June 2017, the FWC published its schedule of implementation, with the proposed reductions to be phased in between July 1, 2017 and July 1, 2020, with some reductions being completely phased in by July 1, 2019<sup>4</sup>. By July 1 2019, all but those on pharmacy awards, and full time / part time workers in retail will have had the full penalty rate reductions phased in.

### The Fair Work Commission's 2017 Penalty Rates Decision

Award title	<b>Sundays</b>			
	<i>Full-time &amp; part time</i>		<i>Casual</i>	
	Previous Loading	Proposal	Previous Loading	Proposal
<i>Hospitality Award</i>	175	150	175	No change
<i>Retail Award</i>	200	150	200	175
<i>Fast Food Award</i>	150	125	175	150
<i>Pharmacy Award</i>	200	150	225	175

Award title	<b>Public holiday penalty rates</b>			
	<i>Full-time &amp; part-time</i>		<i>Casual</i>	
	Previous Loading	Proposal	Previous Loading	Proposal
<i>Hospitality Award (cl.32)</i>	250	225	275	250
<i>Restaurant Award (cl. 34)</i>	250	225	250	250
<i>Retail Award (cl. 29)</i>	250	225	275/250	250
<i>Fast Food Award (cl. 30)</i>	250	225	275	250
<i>Pharmacy Award (cl. 31)</i>	250	225	275	250

<sup>4</sup> <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/2017fwcfb3001.pdf>

Schedule of the introduction of new penalty rate loadings

**Pharmacy**

	FT/PT		Casual	
	Old	New	Old	New
1-Jul-17	200	195	225	220
1-Jul-18	195	180	220	205
1-Jul-19	180	165	205	190
1-Jul-20	165	150	190	175

**Fast Food**

	FT/PT		Casual	
	Old	New	Old	New
1-Jul-17	150	145	175	170
1-Jul-18	145	135	170	160
1-Jul-19	135	125	160	150

**Hospitality**

	FT/PT	
	Old	New
1-Jul-17	175	170
1-Jul-18	170	160
1-Jul-19	160	150

**Retail**

	FT/PT		Casual	
	Old	New	Old	New
1-Jul-17	200	195	200	195
1-Jul-18	195	180	195	185
1-Jul-19	180	165	185	175
1-Jul-20	165	150		

## Results

At the time of writing, the 45<sup>th</sup> parliament has been dissolved with the Federal Election to be held on May 18, 2019. It is assumed that the 46<sup>th</sup> parliament will extend until mid-2022, spanning the three financial years of 2019-20, 2020-21, 2021-22.

This discussion paper explores the aggregate impact to workers remuneration ***over the forthcoming three year parliamentary term*** under two scenarios: the status quo (the Government's current penalty rate policy, which will comply with the full reduction scheduled by the FWC), and the proposal by the Federal Opposition to 'reverse' the penalty rate cuts announced by the FWC in February 2017, within the first hundred days of taking office.

The following results outline the difference in aggregate Sunday and public holiday income received by workers in all affected industries under these two scenarios over the assumed three-year life of the forthcoming parliament.

The results do not calculate the broader economic implications, such as flow on effects to aggregate demand, but instead focus solely on the direct financial implications associated with the Sunday and public holiday penalty rate changes.

The results are based in only those award-reliant workers expected to work specifically on weekends and public holidays, not all workers on awards. Importantly, the results assume that all workers subject to awards are indeed paid their full entitlement, despite growing evidence that workers reliant on penalty rates – particularly those in the hospitality industry – are often underpaid<sup>5</sup>.

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<sup>5</sup>[https://www.aph.gov.au/Parliamentary\\_Business/Committees/Senate/Education\\_and\\_Employment/AvoidanceofFairWork/Report/c06](https://www.aph.gov.au/Parliamentary_Business/Committees/Senate/Education_and_Employment/AvoidanceofFairWork/Report/c06)

The collective impact of the reduction in Sunday and Public Holiday penalty rates is significant. Under the status quo, it is expected that workers in all industries in subject to the FWC's 2017 penalty rate reductions will \$2.87 billion less over the life of the forthcoming parliament than if the penalty rate reductions are reversed. The majority of this income loss is felt in the retail industry, where there is a \$1.64 billion divergence in the likely aggregate income under the two major parties' respective policy proposals.

## National & State-by-State Results – All Affected Industries

### Aggregate Sunday & Public Holiday Income FY19-22

#### *All Affected Industries*

	<b>Coalition Government</b>	<b>Labor Government</b>	<i>Difference</i>
<b>National</b>	\$ 14,617,993,368.97	\$ 17,485,158,244.58	\$ 2,867,164,875.61
New South Wales	\$ 4,601,207,844.53	\$ 5,500,469,154.54	\$ 899,261,310.01
Victoria	\$ 3,859,944,710.18	\$ 4,610,688,772.83	\$ 750,744,062.65
South Australia	\$ 1,051,908,909.63	\$ 1,261,560,693.23	\$ 209,651,783.60
Western Australia	\$ 1,515,367,871.72	\$ 1,814,883,808.12	\$ 299,515,936.40
Queensland	\$ 2,891,464,087.31	\$ 3,465,167,154.06	\$ 573,703,066.75
Northern Territory	\$ 124,434,816.11	\$ 148,001,537.76	\$ 23,566,721.65
Tasmania	\$ 330,186,272.49	\$ 395,210,796.62	\$ 65,024,524.13
ACT	\$ 243,478,857.00	\$ 289,176,327.41	\$ 45,697,470.41

## National & State-by-State Results – Retail

### Aggregate Sunday & Public Holiday Income FY19-22

#### *Retail*

	<b>Coalition Government</b>	<b>Labor Government</b>	<i>Difference</i>
<b>National</b>	\$ 6,893,435,015.01	\$ 8,534,765,980.56	\$ 1,641,330,965.55
New South Wales	\$ 2,119,521,342.70	\$ 2,625,107,363.19	\$ 505,586,020.48
Victoria	\$ 1,892,104,415.72	\$ 2,333,839,119.15	\$ 441,734,703.43
South Australia	\$ 526,078,744.33	\$ 651,957,078.29	\$ 125,878,333.96
Western Australia	\$ 726,724,245.23	\$ 900,612,352.70	\$ 173,888,107.48
Queensland	\$ 1,326,722,047.46	\$ 1,649,331,521.65	\$ 322,609,474.20
Northern Territory	\$ 49,992,929.15	\$ 61,826,660.34	\$ 11,833,731.19
Tasmania	\$ 154,809,259.47	\$ 191,851,492.92	\$ 37,042,233.45
ACT	\$ 97,482,030.95	\$ 120,240,392.32	\$ 22,758,361.36

## National & State-by-State Results – Hospitality

Aggregate Sunday & Public Holiday Income FY19-22

	<i>Hospitality</i>		
	<b>Coalition Government</b>	<b>Labor Government</b>	<i>Difference</i>
<b>National</b>	\$ 5,580,773,766.37	\$ 6,417,929,755.69	\$ 837,155,989.31
New South Wales	\$ 1,797,315,321.95	\$ 2,067,098,663.22	\$ 269,783,341.27
Victoria	\$ 1,416,264,976.96	\$ 1,626,602,881.97	\$ 210,337,905.01
South Australia	\$ 379,015,865.52	\$ 435,994,736.82	\$ 56,978,871.30
Western Australia	\$ 568,596,183.35	\$ 654,075,372.22	\$ 85,479,188.87
Queensland	\$ 1,134,503,250.54	\$ 1,306,457,333.68	\$ 171,954,083.14
Northern Territory	\$ 54,094,617.78	\$ 62,183,375.96	\$ 8,088,758.18
Tasmania	\$ 126,033,842.58	\$ 144,980,981.08	\$ 18,947,138.49
ACT	\$ 104,949,707.69	\$ 120,536,410.74	\$ 15,586,703.06

## National & State-by-State Results – Pharmacy

Aggregate Sunday & Public Holiday Income FY19-22

	<i>Pharmacy</i>		
	<b>Coalition Government</b>	<b>Labor Government</b>	<i>Difference</i>
<b>National</b>	\$ 356,433,429.74	\$ 441,300,270.64	\$ 84,866,840.90
New South Wales	\$ 108,936,978.16	\$ 134,922,568.47	\$ 25,985,590.31
Victoria	\$ 95,688,113.51	\$ 118,027,663.11	\$ 22,339,549.60
South Australia	\$ 25,561,675.92	\$ 31,677,986.86	\$ 6,116,310.94
Western Australia	\$ 38,145,350.32	\$ 47,272,640.10	\$ 9,127,289.78
Queensland	\$ 68,819,478.33	\$ 85,553,816.74	\$ 16,734,338.41
Northern Territory	\$ 2,994,264.33	\$ 3,703,030.94	\$ 708,766.62
Tasmania	\$ 9,023,132.43	\$ 11,182,156.89	\$ 2,159,024.46
ACT	\$ 7,264,436.74	\$ 8,960,407.53	\$ 1,695,970.78

## National & State-by-State Results – Fast Food

### Aggregate Sunday & Public Holiday Income FY19-22

#### *Fast Food*

	<b>Coalition Government</b>	<b>Labor Government</b>	<i>Difference</i>
<b>National</b>	\$ 1,787,351,157.85	\$ 2,091,162,237.70	\$ 303,811,079.85
New South Wales	\$ 575,434,201.71	\$ 673,340,559.66	\$ 97,906,357.95
Victoria	\$ 455,887,203.99	\$ 532,219,108.60	\$ 76,331,904.61
South Australia	\$ 121,252,623.86	\$ 141,930,891.27	\$ 20,678,267.41
Western Australia	\$ 181,902,092.82	\$ 212,923,443.10	\$ 31,021,350.28
Queensland	\$ 361,419,310.99	\$ 423,824,481.99	\$ 62,405,171.00
Northern Territory	\$ 17,353,004.85	\$ 20,288,470.51	\$ 2,935,465.67
Tasmania	\$ 40,320,038.02	\$ 47,196,165.74	\$ 6,876,127.72
ACT	\$ 33,782,681.61	\$ 39,439,116.82	\$ 5,656,435.21

## Conclusion

Penalty rate policy provides a significant point of distinction between the two major parties at the 2019 Federal Election.

The incumbent Coalition Government has, at the very least, accepted the decision to reduce Sunday and public holiday penalty rates for workers in the Fast Food, Hospitality, Retail and Pharmacy industries made by the Fair Work Commission in 2017, making no commitment to amend that decision.

In contrast, the Federal Opposition has announced its intention to reverse the FWC's decision.

Over the scheduled three year parliamentary term that will begin after the May 18 election, these two policy choices will result in a significant difference in the aggregate pay expected for award reliant weekend and public holiday workers in these four industries. It is expected that, under the status quo, workers across the nation will receive, collectively, \$2.87 billion less in Sunday and penalty rate pay than under a policy that reverses the Fair Work Commission's February 23, 2017 penalty rate reductions.



## Appendix

### Data Sources

- Employment in Retail and Hospitality Industry obtained from the ABS Census of Population and Housing 2016. The number of workers for 'Retail' and 'Hospitality' were assumed to be all workers from 'Retail Trade' and 'Accommodation and Food Services' with 'Pharmacy' workers and 'Fast Food' workers removed from these totals respectively.
- 1. The total number of workers for 'Pharmacy' obtained from the Pharmacy Board's Dec 2018 data:  
<https://www.pharmacyboard.gov.au/about/statistics.aspx>
- 2. The total number of 'Fast Food' workers obtained from 2018 IBIS world data:  
<https://www.ibisworld.com.au/industry-trends/market-research-reports/accommodation-food-services/fast-takeaway-food-services.html>
- 3. The proportion of award reliant workers for each industry and the number of workers who work weekends were obtained from  
<https://www.aph.gov.au/DocumentStore.ashx?id=35518764-8777-4a20-b8a3...> and the ACTU.
- 4. The hourly wage rates and transitional arrangements for Sunday and Public Holidays rates have been taken from the FWC's current awards and minimum wage rates as of 1-07-2018 for each industry (level 1) and the lowest base hourly rate has been used in order to maintain a conservative estimate:  
<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/2017fwcfb3001.pdf>  
<https://www.fwc.gov.au/awards-agreements/minimum-wages-conditions/minimum-wage-increases-2018/general-retail-industry-wage>

[https://www.fwc.gov.au/documents/documents/modern\\_awards/award/ma000003/default.htm](https://www.fwc.gov.au/documents/documents/modern_awards/award/ma000003/default.htm)

<https://www.fairwork.gov.au/ArticleDocuments/872/hospitality-industry-general-award-ma000009-pay-guide.pdf.aspx>

<https://www.fairwork.gov.au/ArticleDocuments/872/pharmacy-industry-award-ma000012-pay-guide.pdf.aspx>.

5. Growth rate for employment in ‘Retail’ and ‘Accommodation and Food Services’ obtained from the Department of Jobs and Small Business:  
<https://australianjobs.jobs.gov.au/jobs-future/industry-outlook>.

### **Assumptions**

1. A marginal tax rate of 19% has been used to estimate the average loss in disposable income per worker after the cuts with 7.5 hours of work a day.
2. The loss in income on Sundays for the years 2019-22 (p/a loss) and the loss in income for Public Holidays (p/a loss) have been calculated for each State/Territory separately:

<b>Public Holidays</b>	NT	QLD	WA	VIC	ACT	NSW	SA	TAS
2019/20	14	14	13	15	15	13	13	13
2020/21	15	13	14	16	16	14	14	14
2021/22	16	10	15	17	17	15	15	15
<b>Sundays</b>	NT	QLD	WA	VIC	ACT	NSW	SA	TAS
2019/20	51	50	51	50	50	50	51	51
2020/21	51	50	51	50	50	50	51	51
2021/22	50	49	50	49	49	49	50	50

3. Proportion of workers who work weekends in each industry:
  - a. Retail: 46.4%
  - b. Hospitality: 61%
  - c. Pharmacy: 42.1%

- d. Fast Food: 59.9%
- 4. Percentage of award reliant workers for each industry:
  - a. Retail: 34.5%
  - b. Hospitality: 42.7%
  - c. Pharmacy: 65%
  - d. Fast Food: 43%
- 5. On public holidays that fall on Sundays, the public holiday loading has been assumed.
- 6. It is assumed that an incoming Labor Government would successfully legislate its penalty rate policy within the first 100 days in office.
- 7. It is assumed that the 46<sup>th</sup> parliament meets for a full term, covering the three financial years from 2019-2022.

### **Example method**

To calculate the loss in income due to the cut in Penalty Rates on a Sunday for an average worker on the Retail Award: The total number of workers in the retail industry (less Pharmacy workers) have been multiplied by the proportion of workers on awards and who work weekends. This product has then been multiplied by the new hourly rate into 7.5 hours into 52 weeks less 19% taxation. This has been calculated for 3 years as the transitional arrangements have taken place and been compared to 3 years of income under a system with full penalty rates on a Sunday applied.

## **About the McKell Institute**

The McKell Institute is a progressive research institute dedicated to providing practical and innovative solutions to contemporary policy challenges.

[www.mckellinstitute.org.au](http://www.mckellinstitute.org.au)