



Australian Hotels Association

Submission to the Senate Standing Committee on Education, Employment and
Workplace Relations

Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009

15 April 2009

[The AHA](#)

The AHA is the pre-eminent tourism and hospitality industry organisation in Australia. It has in excess of 5000 members operating general and accommodation hotels.

The AHA is a federally registered industrial organisation of employers. It has a national office and branches in each State and Territory. It also has a discrete branch to represent the interests of its accommodation members. This branch covers four and five star properties operated by the major chains.

The hotel sector, excluding accommodation, employs nearly 200,000 employees (according to figures from a recent PWC survey).

The overwhelming majority of AHA members (more than 95%) are constitutional corporations, and within the jurisdiction of the Workplace Relations Act 1996 ("the Act").

Approximately 50% of AHA members are small businesses with less than 20 employees.

Our members currently operate under three federal awards and numerous NAPSAs. From the 1st of January 2010 the majority of employees in our sector will have their underpinning employment conditions determined by the "modern" Hospitality Industry (General) Award 2010. The transfer to this award will bring with it unexpected and unbudgeted increases in labour costs for our members.

Currently less than 10% of AHA members operate under statutory collective or individual agreements.

The tourism and hospitality industry in Australia employs more than 900,000 employees and contributes approximately 5% of Australia's Gross Domestic Product.

Employers in the accommodation, café and restaurant industry are heavily award reliant. This means they will be directly and immediately impacted by the commencement of the modern awards.

[Comments on Transitional Bill](#)

Workplace relations in Australia will undergo significant change over the next 12 months as the Fair Work Act 2009 comes on-line. We see the Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009 (the 'transitional Bill') as an important component in assisting employers and employees manage this change.

The AHA is broadly supportive of the transitional Bill save for our concerns regarding the proposed take-home pay provisions.

Since the publication of the Hospitality Industry (General) Award 2010 ('modern hospitality award') in December last year our members have expressed concern regarding possible payroll implications arising from changes to some current award conditions. Added to this are the payroll implications for members who are currently covered by NAPSAs in Western Australia, South Australia, Northern Territory and in some regions and occupations in Queensland.

The difficulty for our members is these potential increases in the cost of labour from award modernisation, does not, by our observation, appear to have been counter-balanced with changes to employees' conditions that would assist in containing the impact of cost increases, such as productivity offsets.

A view has developed that employers will have five years to adjust to meet these additional payroll costs through the modern hospitality award's transitional arrangements*. We do not believe this school of thought meets the Australian Government's commitment to not disadvantage employees or increase costs for employers.

(*Paragraph 45 of DEEWR submission to Fair Work (Transitional Provisions and Consequential Amendments) Bill 2009.)

We have always seen Australian Government's award modernisation no disadvantage request as a balancing requirement. We believe it is absolutely central to the successful implementation of modern awards that it remain so.

The balancing off requirement is clearly explained at paragraph 19 of the Australian Government's submission to the Australian Industrial Relations Commission on the exposure drafts of the priority awards— which states as follows:

“The Government stresses the importance of creating modern awards which balances the overall impact on employees and employers. In particular, it is important that the Commission take account of the overall costs and benefits that may accrue to employers and employees through each modern award. ..”

We say this balancing off commitment is vastly different from a position that sees employers burdened with extra cost as a result of award modernisation albeit with phasing in arrangements so they have “an appropriate adjustment period” (paragraph 45 of DEEWR Submission).

We are concerned the transitional Bill contains a provision that provides the potential for an employee to have their take-home pay saved but no reciprocal commitment regarding increases to an employers payroll costs as a result of award modernisation.

We submit the take home pay guarantee needs to be removed from the transitional Bill as it will make it impossible to balance the overall impacts of award modernisation on employers and employees.

In the alternative we submit the Bill needs to contain a provision that allows employers to apply to FWA for an order remedying any increase in payroll costs that are directly attributable to the award modernisation process.