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## Submission Header

The Australian Retail Council (ARC) welcomes the opportunity to contribute to the statutory review of the Fair Work Legislation Amendment (Closing Loopholes) Acts 2023 and 2024.

ARC represents a \$444 billion sector, and employs 1.4 million Australians, one in ten workers, making retail the nation's largest private sector employer and a cornerstone of the Australian economy, contributing 16 percent of national GDP.

Our membership spans the full breadth of Australian retail: from family-owned small and independent businesses, which comprise 95% of our membership, to the largest national and international retailers that support thousands of jobs and sustain communities across both metropolitan and regional Australia. Our industry operates more than 155,000 retail outlets nationwide, with the majority of those also represented by an online or e-commerce presence.

A strong retail sector delivers widespread benefits to all Australians, with a significant portion of every dollar spent in retail flowing back into employees, suppliers, superannuation funds, and local communities. We are united in advocating for the policy settings, reforms and collaboration that will drive growth, resilience, and long-term prosperity for Australian retail and the millions who rely on it.

## Executive Summary

Australia is confronting weak productivity growth, sustained cost of living pressures and persistent youth underemployment. Productivity growth over the past decade has been the lowest in more than half a century. Prices are materially higher than five years ago, and households have experienced a prolonged erosion in real wage growth. These pressures are structural and economy-wide.

Retail is central to addressing these challenges. A one per cent improvement in retail productivity would increase real GDP by approximately \$3.2 billion per year and deliver around \$1.3 billion in annual savings to households, equivalent to roughly \$115 per household each year. In a sector where essentials account for a higher share of expenditure among lower income households, productivity improvements disproportionately benefit those most exposed to cost pressures.

In this macroeconomic context, legislative settings affecting retail workforce architecture must be assessed not only against fairness objectives, but also against operational clarity, productivity impacts and youth participation consequences.

Retail businesses have worked constructively to implement the Closing Loopholes reforms and have adjusted governance, workforce planning and industrial practices to ensure compliance. The sector has successfully adapted to the new framework without widespread operational disruption.

However, this stability should not be interpreted as an absence of impact. The reforms have required material operational change, particularly in labour hire utilisation, workforce planning and management capability. Retail has absorbed these changes at a time of weak productivity growth and sustained cost pressures.

ARC therefore submits that the review should prioritise consolidation and clarity rather than further expansion of the regulatory framework.

## Body of Submission

### 1. Retail Sector Context

Australia's productivity performance and cost-of-living pressures have sharpened scrutiny of regulatory design across the economy. Labour productivity growth has more than halved since 2015, real wages have fallen back to around 2011 levels following recent inflation, and youth unemployment remains around 10 per cent compared with approximately 4 per cent for the broader workforce. Over the same period, regulatory compliance costs across the economy have increased significantly, rising from around \$65 billion in 2013 to approximately \$160 billion in 2024, equivalent to 5.8 per cent of GDP.

In this environment, policy settings affecting retail carry economy-wide implications. Retail employs around 1.4 million Australians and generates approximately \$444 billion in annual turnover while operating essential national supply chains that directly influence household prices. Improvements in retail productivity flow beyond the sector itself. Analysis commissioned by ARC indicates that a one per cent uplift in retail productivity increases output across the economy by approximately \$3.2 billion annually while delivering around \$1.3 billion in annual savings to Australian households.

Retail operates in a high-volume, low-margin, multi-site environment spanning stores and distribution centres across every jurisdiction. Workforce models typically combine permanent part-time and casual engagement, supported by short-duration labour supplementation during predictable seasonal demand peaks such as Christmas and back-to-school trading periods. These operating characteristics are not incidental to the sector. They underpin national supply continuity, support consumer demand and help maintain price discipline at a time of sustained cost pressure.

Retail's role in youth employment is structural rather than peripheral. Almost one-third of the retail workforce is aged under 25, making the sector one of Australia's primary entry points into the labour market. Youth participation is closely linked to flexible engagement models, with approximately 46 per cent of retail employees working part time and around one-third engaged on casual arrangements. These workforce patterns enable rapid scaling of operations while providing accessible employment pathways for students and first-job seekers. Regulatory settings that affect onboarding processes, conversion pathways or labour supplementation mechanisms therefore have disproportionate consequences for youth participation and workforce mobility.

Retail businesses have demonstrated an ability to adapt to evolving regulatory settings. However, adaptation requires investment in governance systems, workforce planning, training and compliance capability. The practical operation of industrial relations reform must therefore be assessed not only against legislative intent but against its cumulative operational impact within a sector that is both systemically important and labour intensive.

In this context, ARC submits that the review should consider the Closing Loopholes reforms within Australia's broader productivity and labour market environment. Policy settings that provide clarity, stability and operational certainty will best support compliance, workforce participation and sustainable economic growth.

### 2. Labour Hire "Same Job, Same Pay"

ARC's assessment is that the labour hire protected pay rate regime has been the most operationally consequential element of the Closing Loopholes reforms for retail, particularly within distribution environments.

Distribution centres operate with structurally variable labour demand linked to seasonal trading cycles and supply chain fluctuations. In response to the reforms, retailers have adjusted workforce planning approaches, strengthened oversight of labour hire arrangements and recalibrated engagement models to operate within the revised legislative

framework. These adjustments demonstrate that the sector has implemented the reforms and adapted operational practices to ensure compliance.

The transition has nonetheless required material organisational change. In environments where labour flexibility has traditionally supported rapid scaling during peak demand periods, businesses have increasingly internalised recruitment, scheduling and workforce management functions to manage regulatory exposure. While these responses embed compliance outcomes, they also alter longstanding operating models in a low-margin sector where efficiency and responsiveness are critical.

ARC considers that the framework is now embedded in retail operations. The priority for the review should therefore be clarity and predictability rather than expansion. Greater practical guidance distinguishing labour supply from genuine service provision, together with clearer treatment of recurring seasonal peak arrangements, would improve certainty while allowing the reforms to mature within established business practices.

### **3. Casual Definition and Conversion**

The revised definition of casual employment and the employee choice pathway have been incorporated into retail workforce management systems following significant implementation effort across the sector. Employers have updated policies, trained operational leaders and adjusted rostering practices to ensure consistent application of the new framework.

Retail employment structures rely heavily on flexible engagement models that support students, part-time workers and individuals seeking adaptable work arrangements. The sector has adjusted to the revised settings while continuing to maintain these employment pathways. At the same time, the interaction between predictable retail rostering patterns and conversion eligibility thresholds has created practical edge cases that require careful management.

ARC's assessment is that the framework is now functioning within retail operations, but greater operational clarity would reduce uncertainty and support long-term stability. The principal operational challenges arising from the reforms relate primarily to interpretation rather than legislative intent. In particular, uncertainty around concepts such as a "firm advance commitment" under the casual employment definition has generated avoidable dispute activity despite otherwise stable workforce outcomes. Additional guidance on the interaction between conversion processes and enterprise bargaining arrangements, together with clearer practical examples relevant to retail rostering environments, would assist employers and employees in applying the framework consistently and embedding the reforms with confidence.

The focus should now be on consolidation and clarity rather than further structural reform, allowing businesses to embed compliant practices with confidence.

### **4. Workplace Delegates' Rights**

Retail businesses have incorporated the workplace delegates' rights provisions into existing industrial relations frameworks through management training, updated internal processes and revised workplace engagement practices. The sector is operating within the new arrangements, reflecting a period of adjustment and organisational learning.

Retail environments vary significantly in size, layout and operational intensity, ranging from large distribution facilities to small customer-facing store formats. Applying statutory concepts such as reasonableness within these diverse

operational settings can create uncertainty where practical workplace constraints differ from traditional industrial environments.

ARC considers that the legislative framework itself does not require reopening. Instead, clearer sector-relevant guidance illustrating how reasonableness should operate in retail settings would support consistent interpretation and reduce the risk of unnecessary dispute escalation.

Providing stability in the existing framework will allow workplace practices to continue maturing without introducing additional regulatory uncertainty.

## **5. Right to Disconnect**

The right to disconnect provisions have been implemented across retail operations without significant disruption to day-to-day business activity. The sector's shift-based workforce structure inherently limits exposure to after-hours contact issues, and employers have adjusted communication practices to align with the new requirements.

The absence of widespread operational difficulty reflects deliberate organisational adjustment rather than a lack of regulatory impact. Retail businesses have embedded compliant practices and established clearer expectations regarding communication outside working hours.

ARC submits that the framework has now settled within retail operations. Continued regulatory stability, supported by education and practical guidance, represents the most effective approach. Further legislative change at this stage risks reopening settled practices without delivering commensurate benefit.

## **6. Compliance, Implementation and National Consistency**

Retail operates across multiple jurisdictions and regulatory systems, requiring large employers to maintain nationally consistent compliance frameworks across extensive store and distribution networks. Stability and clarity in industrial relations settings are therefore essential to efficient implementation.

The broader regulatory environment is characterised by rising complexity and increasing compliance obligations. Businesses have invested substantial organisational effort to implement recent industrial relations reforms while continuing to manage overlapping workplace, safety and employment requirements.

ARC submits that the effectiveness of the Closing Loopholes reforms now depends less on additional legislative change and more on consistent interpretation and nationally coherent application. Predictable regulatory settings enable businesses to embed compliance systems, train managers effectively and maintain workforce participation without unnecessary administrative duplication.

A period of consolidation will support both regulatory confidence and operational efficiency.

## **7. Sector-Wide Implications**

Retail productivity directly influences national economic performance and household living standards. Improvements in retail efficiency flow through supply chains and translate into lower consumer prices, stronger economic output and broader labour market participation.

Retail also remains one of Australia's most significant sources of youth employment. Workforce flexibility, accessible entry pathways and scalable employment models are central to maintaining these opportunities. Regulatory settings that unintentionally reduce flexibility or increase onboarding complexity risk constraining participation at a time when youth unemployment and underemployment remain elevated relative to the broader workforce.

ARC submits that the Closing Loopholes reforms are now embedded within retail operations following substantial sector-wide adjustment. The appropriate policy focus is therefore stability, clarity and maturation of the existing framework rather than further expansion.

Allowing the reforms to consolidate will support compliance outcomes while maintaining productivity growth, workforce participation and sustainable operating conditions across one of Australia's largest employing sectors.

## **8. Conclusion**

ARC supports industrial relations settings that promote fair competition, protect employees and provide clear and workable frameworks for businesses operating at scale.

Retail has implemented the Closing Loopholes reforms constructively and is now operating within the revised legislative environment. Across store networks and distribution operations, businesses have adjusted workforce planning, strengthened governance arrangements and embedded new compliance systems to align with the reforms. The stability now observed across the sector reflects significant organisational adjustment undertaken during implementation.

The experience of retail demonstrates that the reforms have been absorbed into day-to-day operations following a period of material transition. In this context, the priority for the review should be consolidation rather than further extension of regulatory obligations. Providing policy certainty will allow employers and employees to fully embed the framework, support consistent compliance outcomes and maintain productive workplace relationships.

Retail plays a central role in Australia's economic performance, supply chain resilience and youth employment participation. Stable and predictable industrial relations settings are therefore essential to sustaining workforce opportunity, productivity growth and competitive operating conditions.

ARC submits that maintaining clarity, consistency and legislative stability will best support the long-term effectiveness of the reforms while allowing the sector to continue delivering employment, investment and value to Australian households.

ARC stands ready to continue engaging constructively with Government as the review progresses.