

February 2026

The operation and adequacy of the National Employment Standards

The Australian Retail Council (ARC) welcomes the opportunity to contribute to the House of Representatives Standing Committee on Employment, Workplace Relations, Skills and Training inquiry into the operation and adequacy of the National Employment Standards.

ARC, represent 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

The Australian Retail Council welcomes the opportunity to contribute to the Committee's inquiry into the National Employment Standards. Retail is one of Australia's largest employing sectors, operates essential supply chains and plays a central role in delivering affordable goods to households. The NES is a core component of Australia's workplace relations system and ARC supports its role as a universal safety net that underpins fairness, workforce participation and community confidence.

This submission demonstrates that retail business models have evolved significantly through seven-day trading, omni-channel fulfilment, rapid delivery expectations, technological adoption and increasingly flexible workforce participation. These changes have implications for how NES settings operate in practice, particularly in relation to rostering, public-holiday work, leave administration, termination payments and the interaction between minimum standards, awards and enterprise agreements.

ARC submits that future consideration of the NES should preserve enterprise-level tailoring, prioritise national consistency and administrability, and be supported by rigorous assessment of productivity, cost and implementation impacts. Reforms should include realistic transition periods, payroll-system testing and clear regulatory guidance.

ARC would welcome the opportunity to continue engaging with the Committee, including through the provision of further data and analysis drawn from forthcoming research commissioned from Mandala Partners.

Body of Submission

1. Retail Sector Context

Australia's productivity performance and cost-of-living pressures have sharpened scrutiny of regulatory complexity across the economy. National analysis by Mandala Partners estimates that the cost of complying with Commonwealth regulation has grown from around \$65 billion in 2013 to approximately \$160 billion in 2024, equivalent to 5.8 per cent of GDP, reflecting rapid legislative expansion and rising administrative demands on business¹. In this context, the impact on retail is particularly significant. The sector employs 1.4 million Australians, generates \$444 billion in annual turnover and operates essential supply chains that directly influence household prices, meaning regulatory design in retail carries economy-wide implications.

Within this workforce, around 46 per cent of employees are engaged part time, significantly above the national average, and approximately 28 per cent work on casual arrangements, rising to around 32 per cent in Retail Trade alone. Retail spans business models ranging from specialist stores to national chains, integrated physical and online fulfilment operations, logistics networks and distribution centres. High levels of casual and part-time participation, a comparatively younger workforce, and frequent commencements and cessations highlight the sector's dynamic employment profile and set the backdrop for assessing how the National Employment Standards operate in large-scale, high-volume and multi-jurisdiction workplaces.

Modern retail operates with seven-day trading and extended hours, including substantial activity on weekends and public holidays, and responds to sharp demand fluctuations driven by seasonal peaks, promotions, emergency responses and rapid online order surges. Operations increasingly combine physical stores with omni-channel fulfilment, micro-fulfilment sites and large distribution centres, supported by digital rostering and workforce management systems. Supply chains frequently run around the clock and use blended labour models that may include employees, labour-hire staff, contractors and platform partners to meet short delivery windows and surge demand.

Recent analysis commissioned by ARC has highlighted retail's central role in national productivity and cost-of-living outcomes. The modelling indicates that a 1 per cent increase in retail productivity lifts economic output across other sectors and boosts GDP by approximately \$3.2 billion each year, while also acting as a key lever for lower prices, with a comparable productivity improvement estimated to reduce consumer costs by around \$1.3 billion annually². The same work identifies regulatory fragmentation across transport, logistics, environmental regulation and employment frameworks as imposing material costs on retailers and the broader economy. These findings underscore why retail performance has economy-wide implications and provide essential context for assessing how the National Employment Standards operate in high-volume, multi-jurisdictional and digitally enabled workplaces.

2. Objective and Purpose of the National Employment Standards

The National Employment Standards play a central role in Australia's workplace relations system by establishing a universal set of minimum entitlements for employees. They underpin fairness, provide certainty for workers, and support stable employment relationships across the economy. ARC members recognise the importance of this baseline safety net and its role in maintaining community confidence in labour standards.

At the same time, retailers emphasise that the NES must continue to balance minimum protections with the capacity for enterprises to operate productively, adapt to changing consumer demand and sustain employment at scale. In a sector characterised by high workforce participation, seven-day trading and essential service provision, productivity and service

¹ Mandala, \$160 billion and counting: The cost of Commonwealth, regulatory complexity.

² Mandala Partners, Regulatory Fragmentation in Retail 2026

continuity are integral to delivering secure jobs and affordable access to goods for households. ARC therefore submits that the enduring objective of the NES should remain two-fold: protecting employees through clear and enforceable minimum standards, while supporting commercially sustainable business models that enable investment, job creation and reliable supply chains.

ARC further submits that the NES should continue to operate as a minimum safety net rather than a substitute for awards or enterprise agreements. Enterprise-level arrangements play a critical role in tailoring working arrangements to specific operating environments, particularly in retail formats with extended trading hours, seasonal peaks and logistics operations. Maintaining this distinction is important to ensure the system remains flexible, coherent and capable of responding to evolving business models.

3. Fitness for Purpose in a Changing Economy

Retail employment has shifted towards highly flexible working patterns, with around 46 per cent of employees working part-time and approximately 28 per cent engaged on casual arrangements, rising to 32 per cent in Retail Trade, alongside employment growth of around 11 per cent since May 2020 and continued expansion projected³. Workforce demographics include higher youth participation and underemployment than the all-industry average, meaning NES provisions increasingly operate in environments characterised by volatile hours, frequent commencements and cessations, and rapid redeployment of labour. These conditions heighten the operational impact of rules governing rostering, hours of work and leave in seven-day trading businesses subject to seasonal peaks and natural disasters.

Retail business models have also evolved through omni-channel operations, continuous supermarket and logistics networks and customer expectations for same-day or short delivery windows. In this setting, rules governing roster-change notice, overtime triggers, part-time hour variation, casual pathways and public-holiday consent mechanisms, including uncertainty around “reasonable refusal” frameworks, can limit responsiveness during demand surges and emergency conditions. Extended public-holiday trading periods that coincide with natural disasters place additional strain on food and essential-goods supply chains, underscoring the importance of NES settings that function effectively in continuous-trading environments.

Technological change is reshaping retail work through automated fulfilment centres, store-based micro-fulfilment, algorithmic rostering and remote digital task allocation, with work increasingly performed across multiple locations in a single week. Blended workforce models in delivery and logistics functions, alongside growing participation by secondary carers and flexible return-to-work arrangements, further test traditional regulatory assumptions. NES operation in large national retail payroll environments is also shaped by state-based long-service-leave schemes and termination-payment timing requirements, which add administrative complexity at scale. Together, these features indicate that while the NES continues to provide essential minimum protections, its practical operation must remain capable of accommodating volatile demand, technological change and contemporary workforce participation models in modern retail operations.

4. Interaction With Awards and Enterprise Agreements

Retail is a highly award-reliant sector, with the General Retail Industry Award applying to the largest number of employees nationally and around 35 per cent of retail workers estimated to rely directly on award conditions. More than half of retail workers and over three-quarters of award-reliant employees are employed by small and medium-sized businesses, which typically have limited capacity to negotiate enterprise agreements. At the same time, large retailers rely on enterprise agreements to manage seven-day trading, public-holiday operations, logistics networks and seasonal

³ SaCSA Retail Workforce Plan Update 2025

peaks. This structure means that NES changes interact immediately with award classifications and enterprise provisions, amplifying complexity in high-turnover workplaces.

Retail work is increasingly multi-skilled and task-fluid, with employees moving between customer service, shelf replenishment and online fulfilment across multiple locations and under digitally coordinated rostering systems. In this environment, NES settings around hours, public-holiday work and flexibility can cut across enterprise-level arrangements designed to support continuous trading and rapid demand response. The sector has repeatedly identified award and regulatory complexity as a major source of compliance burden and disputation in retail. Taken together, these features indicate that any NES reform should be assessed for its downstream effects on awards and enterprise agreements, with particular regard to clarity, administrability and the capacity for enterprise-level tailoring in large and small retail businesses alike.

5. Practical Operation, Workforce Participation and Compliance

Retail workplaces administer NES obligations through large payroll and rostering systems operating across multiple jurisdictions and processing high volumes of weekly transactions. State-based long-service-leave schemes require parallel compliance frameworks for national businesses, while termination-payment timing requirements create operational risk where employees commence and cease employment daily and payroll runs operate on fixed cycles. High-turnover workforces also magnify the administrative burden created by repeated obligations to issue employment information statements and manage casual-conversion processes, particularly in large store networks and logistics operations.

Compliance outcomes in retail are strongly shaped by regulatory clarity and system workability. Regulatory complexity is a leading contributor to payroll error risk and remediation activity, particularly in relation to overtime frameworks and prescriptive rostering rules. These characteristics point to the importance of NES settings that are capable of being implemented accurately at scale, supported by clear regulator guidance, adequate system-change lead times and transition periods that reflect payroll re-configuration requirements and the limited industrial-relations capacity of many small and medium-sized retailers.

6. Costs and Productivity Implications of NES Settings

Retail operates on structurally thin margins and is highly sensitive to regulatory change that increases labour and compliance costs at scale. Independent modelling undertaken by Mandala Partners for ARC demonstrates that regulatory fragmentation in adjacent policy areas is already imposing annual costs in the order billions of dollars per year across major retail operations⁴.

NES settings therefore need to be considered in the context of cumulative regulatory layering and system-change requirements rather than in isolation. Recent changes to workplace regulation have materially increased labour and compliance costs in retail, reinforcing the importance of assessing cumulative impacts before any further expansion of NES obligations. Mandala's work further identifies administrative duplication, payroll and system rebuilds, retraining costs and compliance reporting as major cost drivers when regulatory frameworks change, alongside operational disruption during transition periods. These pressures are magnified in national retail networks that must reconfigure payroll systems, rostering tools and enterprise arrangements simultaneously across jurisdictions, and in small and medium-sized retailers that lack in-house industrial-relations capability. Changes to leave frameworks, redundancy obligations, rostering rules or termination-payment timing can therefore generate material implementation costs well beyond the headline entitlement itself.

⁴ Mandala Partners, Regulatory Fragmentation in Retail 2026

From a productivity perspective, labour-market rigidity in essential retail supply chains also carries downstream impacts for service availability, disaster response capacity and consumer prices. Mandala's case studies quantify substantial costs to the economy arising from jurisdictional variation in retail operations estimated at \$2.6 billion per year, underscoring the importance of regulatory coherence in sectors responsible for continuous food and essential goods supply. ARC submits that any proposed NES expansion or redesign should therefore be accompanied by rigorous regulatory-impact analysis, testing of payroll-system capability, realistic transition periods and post-implementation review to ensure that minimum-standard objectives are achieved without unintended productivity losses or cost-of-living pressures for Australian households.

8. Evidence Gaps and Offer to Assist

Throughout this submission, ARC has drawn on analysis prepared by Mandala Partners for its forthcoming report, *Regulatory Fragmentation in Retail 2026*, which was commissioned on February 24. That work seeks to quantify the productivity, economic and compliance impacts of regulatory fragmentation across the retail sector. ARC would welcome the opportunity to brief the Committee on the findings.

More broadly, publicly available data remains limited in capturing how the National Employment Standards operate in large-scale, multi-jurisdiction retail environments. There is comparatively little transparency around cumulative payroll and systems costs arising from regulatory change, the compliance burden created by layered obligations, and the interaction between NES settings, awards and enterprise agreements in high-turnover workplaces. ARC stands ready to support the Committee with anonymised case studies, aggregated payroll and systems data, and practical implementation evidence drawn from both large national retailers and mid-sized operators to assist in developing reforms that are evidence based, proportionate and workable in practice.

9. Conclusion

ARC supports the National Employment Standards as a core safety net for Australian workers and recognises their central role in workforce participation and fairness. The evidence set out in this submission demonstrates, however, that the practical operation of the NES must keep pace with changing retail business models, technological adoption, disaster-response requirements and the realities of high-volume, multi-jurisdiction employment environments.

ARC encourages the Committee to prioritise regulatory coherence, administrability and productivity when considering future reforms, including through rigorous impact assessment, system testing and realistic implementation timeframes. ARC stands ready to work constructively with the Committee and government to share data, provide further analysis and contribute to the development of balanced, evidence-based reforms that protect employees while supporting a resilient and productive retail sector across Australia.