

ARA SUBMISSION

FAIR WORK COMMISSION MODERN AWARDS REVIEW 2023-24 (JOB SECURITY)

The Australian Retailers Association (**ARA**) welcomes the opportunity to provide a submission to the Fair Work Commission (**FWC**) Modern Award Review into Job Security.

The ARA is the oldest, largest and most diverse national retail body, representing a \$420 billion sector that employs 1.4 million Australians – making retail the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies our independent, national and international retail community.

We represent the full spectrum of Australian retail, from our largest national and international retailers to our small and medium sized members, who make up 95% of our membership. Our members operate in all states and territories, across all categories - from food to fashion, hairdressing to hardware, and everything in between.

BACKGROUND

On 12 September 2023, the Minister for Employment and Workplace Relations, the Hon Tony Burke MP, wrote to the President of the FWC, the Hon Justice Adam Hatcher, indicating the Australian Government's interest in the FWC initiating a targeted review of modern awards.

Areas of focus suggested by the Minister included considering whether the terms of modern awards appropriately reflect the new object of the *Fair Work Act 2009* (Cth) (**FW Act**) and modern awards objective regarding job security and the need to improve access to secure work across the economy.

In a Statement dated 15 September 2023, the President of the FWC determined to initiate an award review on the FWC's own motion under s 576(2)(aa) of the FW Act to consider three of the four areas outlined in the Minister's letter.

This included whether the terms of modern awards appropriately reflect the new object of the FW Act and modern awards objective regarding job security and the need to improve access to secure work across the economy, including by:

- considering award provisions concerned with rostering, guaranteed shifts, and the interaction of permanent, part-time, and casual classifications; and
- reviewing standard award clauses with general application across the award safety net, to assess their continuing suitability in light of the updated modern awards objective.

POSITION AND PRINCIPLES

In principle, the ARA supports the submission made by the Australian Chamber of Commerce and Industry (**ACCI**) on the general principles of job security.

In relation to the retail sector, the ARA believes that discussions about job security need to be centred around fostering a work environment that is adaptive to the changing needs of employers and employees, responsive to changes in consumer behaviour and drives efficient resource utilisation – all of which ultimately contributes to the long-term sustainability of jobs.

While there may be targeted interventions to enable employers to offer more secure employment, our view is that job security is intrinsically tied to ensuring that businesses remain competitive, sustainable and operational.

In this regard, the ARA retains its position that the Government's ongoing changes to Australia's employment relations landscape will negatively impact job security by driving uncertainty, increasing costs and creating a more complex regulatory environment, without any material uplift in productivity, wages growth or job creation.

In response to question one outlined in the FWC's discussion paper, issued 18 December 2023, we consider that amendments to part-time rostering restrictions are necessary in some modern awards to improve access to secure work across the economy. For example, clause 10 of the *General Retail Industry Award 2020* contains proscriptive rostering restrictions that can have the effect of making it more difficult for employers to provide more hours to part-time employees who desire more work.

In respect of the other discussion questions outlined in the discussion paper, the ARA would be pleased to provide its views during the consultation process.

Beyond the commentary provided by ACCI in its submission, we make the following observations as they relate to the retail sector.

The discussion paper suggests that while "it is possible for any type of worker to be affected by insecure employment, certain employment types appear more susceptible" including casual work, fixed-term contracts, seasonal work, contracting and labour hire, and 'gig work' work arrangements.

However, we believe that labelling these arrangements as "insecure" fails to recognise the valuable role that all work types play in our sector, and the nature of alternative forms of work that are no less legitimate than other forms of legal, consensual work arrangements.

In particular, casual employment is a genuine and fulfilling choice for many employees, particularly those who seek to balance work with other aspects of their lives such as studying or caring responsibilities.

Insights from ARA members confirms that the majority of casual employees are satisfied with their work arrangements, as evidenced by low conversion rates to permanent employment. This is further evidenced by the fact that casual employment in Australia has remained stable for over 20 years.

CONCLUSION

Different types of work arrangements have an increasingly important role to play in ensuring an agile and productive workplace to meet the needs of the Australian economy, which continue to evolve.

The ARA and its members thank the FWC for the opportunity to provide a submission to this important review. Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.