

Fair Work Amendment (Protecting Penalty and Overtime Rates) Bill 2025 - Questions on Notice

21ST August 2025

1. *The Prime Minister and the Treasurer have identified productivity as a key priority for this term of government. In your view, what impact will this Bill have on productivity, and in particular on the ability of small businesses to focus on their core operations rather than diverting resources to administrative and regulatory compliance?*

- The Bill is likely to restrict the ability of the Fair Work Commission to vary awards to allow for more flexible and productive working arrangements which reflect a modern retail environment, and which are beneficial to both employers and employees. This is an unnecessary restriction of the ability of the Fair Work Commission to make considered decisions about fair working conditions which promote productivity.
- The Bill will also restrict the ability of the Fair Work Commission to vary awards to reduce complexity and compliance issues which are a significant regulatory burden for small businesses. This existing compliance burden places a significant cost on all business operators (but particularly small businesses) and takes time and money away from them focusing on their core operations and opportunities for making their businesses more productive. Many of these compliance matters provide little real benefit to employees, and are an unnecessary administrative burden.
- There is no way in which this Bill can be considered to increase productivity.

2. *What would be the likely impact on small and medium-sized businesses, and their employees, if additional record-keeping obligations were introduced in relation to exemption or substitution rate arrangements? Have you quantified this in terms of potential financial loss, or the additional business hours that would be required for regulatory compliance?*

- Record-keeping is already an onerous obligation on small and medium-sized businesses, and the practices required to support this are often not popular with employees either.
- Although we have not quantified the financial loss, we understand from our members that record-keeping and compliance activities cost small and medium-sized businesses significant amounts of money which must be invested in payroll systems as well as taking many hours of work for the owners of these businesses to administer.

3. *To what extent can individual flexibility arrangements serve as an alternative to exemption rate clauses?*

What has been the experience of businesses in using individual flexibility arrangements, and what feedback can you provide on their practical application in the workplace?

- The feedback from many of our members is that they do not utilise IFAs extensively given the significant administrative complexity in administering them and the uncertainty that can arise in relation to their compliance status.
- Although IFAs will continue to have a valid role in our modern award system and will be of benefit to employees and employers in certain situations, they are unlikely to be a realistic alternative to exemption rate clauses. The use of IFAs to implement annualised salaries is likely to raise a number of compliance challenges given the prescriptive nature of the payment obligations in modern awards and the *Fair Work Act 2009* (Cth).
- We do not see IFAs as being an appropriate alternative to the inclusion of an exemption rate clause in the Retail Award.