



AUSTRALIAN SENATE

**EDUCATION AND EMPLOYMENT
LEGISLATION COMMITTEE**

**INQUIRY INTO THE FAIR WORK
AMENDMENT (PROTECTING PENALTY
AND OVERTIME RATES) BILL 2025**

AUGUST 2025

INTRODUCTION

[1] The Restaurant and Catering Industry Association of Australia Incorporated (R&CA) are pleased to provide a submission for the inquiry into the *Fair Work Amendment (Protecting Penalty and Overtime Rates) Bill 2025*.

ABOUT THE RESTAURANT & CATERING ASSOCIATION

[2] R&CA is the national industry association representing the interests of more than 57,000 restaurants, cafés, and catering businesses across Australia. The café, restaurant, and catering sector is vitally important to the national economy, generating over \$35 billion in retail turnover each year as well as employing 580,000 people.

[3] R&CA delivers tangible outcomes to small businesses within the hospitality industry by offering evidence-based solutions to various industry challenges. Our aim is to improve regulations and policies that impact the sector's operating environment to foster robust and prosperous businesses across Australia.

[4] We work to ensure the industry is respected for its integrity, professionalism, and dedication to excellence. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the industry to the Australian way of life.

[5] Given our remit, footprint, engagement with the sector, and ongoing advocacy, we provide you with the following submission and speak with authority.

OUR POSITION

[6] The Restaurant and Catering Industry Association (R&CA), as the custodians of the *Restaurant Industry Award 2020 (Restaurant Industry Award, RIA)*, understand the nexus between the balance between operating costs and the ongoing commitment for employee development.

[7] The annual Restaurant and Catering Industry Benchmarking Report (Benchmarking Report) indicates that wages remain to be the highest direct cost for a business, who are predominantly small family-owned businesses.

[8] Our position is that the benefits of the employment relationship are derived from the transparency between employers and employees. Where employers rely on a modern award like the *Restaurant Industry Award* for wages, then the *RIA* establishes the minimum engagement and entitlements that empower the relationship.

[9] Transparency in the provision of employee entitlements is vital for positive economic and productivity outcomes. The greater the transparency, the lower the cost to search for and utilise information. Therefore, in turn, aligns with the economic principle of a 'lower transaction cost' for employee engagement and compliance for employers.

[10] Transparency in a market contributes to the effectiveness and efficiency of exchange in that market. The greater the transparency provided by the modern award, the more effective and efficient employers and employees can compare apples with apples, for the enforceable terms within the market, and more importantly, employee entitlements.

[11] The *RIA* already contains provisions to provide for an 'Annualised Wage Arrangement', and to bundle entitlements into a weekly payment, where the wage is *'at least 25% more than the minimum wages... multiplied by 52 for the work being performed in satisfaction, subject to...any or all of the following provisions of the award:*

- (i) Minimum rates;*
- (ii) Split shift allowance;*
- (iii) Overtime;*
- (iv) Penalty rates; and*
- (v) Payment for annual leave.'*

[12] The calculation appears simple, however, requires accurate forecasting for ordinary hours, the provision for overtime, penalty rates – such as working on weekends and public holidays, and for a sum for annual leave.

[13] The requirement for an annual reconciliation and the reporting for the various entitlements to ensure that an employee is not worse off under the annualised wage arrangement, is often where issues arise as the process is often difficult to audit for a small business owner or professional accountants and bookkeepers they trust to pay their employees correctly.

[14] Where annualised wage arrangements are beneficial and can be administered correctly, it is still an example where if an employer were to assess each roster cycle and pay period according to the *R/A*, then at that point, it would be unlikely that the correct entitlements would not be paid.

[15] In turn, the correct payment for work performed on an ongoing basis demonstrates the loaded rates that may be applied for penalties or overtime, and the objective and enforceable remuneration for the work performed at that time as established by the modern award.

[16] The genuine and hidden costs to businesses that are not included in the modern awards and impact their bottom line as employers; the costs for hiring, training, developing, and retaining long term employees, particularly where there is a high staff turnover rate.

[17] The benefits of long-term and consistent employment in the industry go beyond penalty rates and overtime and speak to the industry more broadly – employees who are paid correctly, and have opportunities to grow within the industry, are more likely to remain in the industry.

[18] An industry with long-term employees is likely to have an increase in productivity, opportunities for succession planning, and innovation. Longevity also creates higher valued skills, developed over many years that can save the industry in the long-term from ongoing skills shortages for trained and qualified employees.

[19] Employee wellbeing will also likely be higher and employee engagement more positive as well as lowering the risks associated with underpayment of employees for a business where employee entitlements are clear and understood.

[20] R&CA support the Fair Work Commissions ongoing role and are not principally opposed to the amendments outlined in the *Fair Work Amendment (Protecting Penalty Rates and Overtime Rates) Bill 2025*.

[21] R&CA thank the Education and Employment Legislation Committee and welcome engagement on 1300 722 878 or policy@rca.asn.au.