

**BRIEFING NOTES FOR THE PRODUCTIVITY
COMMISSION WORKPLACE RELATIONS
FRAMEWORK DRAFT REPORT**

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1.0 INTRODUCTION

This report will provide a number of identifiable qualitative analysis points for consideration of the Productivity Commission in tabling its final report on Workplace Relations.

I have provided qualitative analysis only on the basis of my academic research. I do not have access to facilities to provide quantitative sociological or economic research. In case, I would expect professional remuneration for that kind of research.

2.0 BACKGROUND INFORMATION

2.1 PERSONAL BACKGROUND

I am currently undertaking a B. Sc. (Mathematics and Statistics) at UWA and finalising a B.A. (Sociology) at Macquarie University (via. Open Universities Australia). I expect to continue my studies at a postgraduate level with research concentrating on the modern working environment.

I currently am employed in the Hospitality industry, and have held a variety of employment in Hospitality industry over the past 15 years. I have worked as an employee and also as an employer providing services to the Hospitality industry. I have part completed a Cert. III of both Hospitality and Commercial Cookery.

I began my education in 1999 at Murdoch University with Introduction to Sociology. My employment since then has been undertaken with a background in the 'participant observer' position. In particular, I have adopted the extreme Anthropological position of 'going native'. This may attract critical analysis from an Academic research ethics position; however I will contend that the nature of the stance taken, 'going native', will hold as a qualitative academic argument. My current study in Mathematics is to provide the quantitative analysis to support my argument.

I am a current United Voice member, and have been so while being employed in the industry. I am also, through the Media, Entertainment and Arts Alliance, a current member of the A.J.A. (Australian Journalist Association)

2.2 RESEARCH AND REFERENCING NOTES

I have not referenced any material in this briefing report. All references are contained in the Commission's draft report and I expect that the Commission staff will be cognisant of this. Any external references are explicitly stated. All qualitative references are taken from my own experience under the Academic discipline of Sociological as part of the 'participant observer' tools.

3.0 DEFINITION OF CLASS OF WORKER AND RELATIONSHIP TO PENALTY RATES

The following categories have been taken from the Productivity Commission draft report. The only external material I contribute is in relation to discretionary service workers. This material is the central premise of these notes.

3.1 STANDARD WORKERS

Workers employed under the standard day work conditions for the standard work week (Monday-Friday). For these workers, penalty rates act as an overtime payment.

3.2 NIGHT WORK/SHIFT WORK

Workers employed at nights and on shift. Penalty rates act as compensation for health and social costs.

3.3 ESSENTIAL SERVICES

Workers employed due to the essential nature of their work (this may or may not be explicitly stated as a legislative statement. As above, penalty rates act as compensation for health and social costs. Penalty rates also act as compensation for individual responsibility of the civic duty of society, which is an implied political statement.

3.4 DISCRETIONARY SERVICE WORKERS: HOSPITALITY, ENTERTAINMENT, RETAILING, RESTAURANTS AND CAFES INDUSTRIES (HERRC)

Section 14 of the Draft Report is explicitly written for this sector. I would argue that penalty rates act for these workers in a particular way that has not been addressed by Fair Work Australia (or its predecessors) or the Productivity Commission report. ***Penalty rates in HERRC industries act as a productivity payment.*** This is implied on p493 where 'Sunday trading for some retail outlets account for up to 25 per cent of revenue' and p494 'with 18% of Australians making Sundays their primary shopping days'. Within Hospitality, Restaurants and Cafes this data will hold true as well. My analysis of Sunday breakfast trade would suggest it is the heaviest food trade position. The following section details a quantitative sociological tool that would verify this.

4.0 QUANTATIVE TOOLS FOR PRODUCTIVITY ANALYSIS

Certificate Three in Hospitality and Commercial Cookery provide education for professional hospitality workers. Within these frameworks a financial template is developed that combined with a number of sociological tools would allow an accurate economic analysis of the Hospitality industry.

5.0 MISCELLANEOUS ISSUES

5.1 ANNUALISED SALARY

Industry standard salary levels pay a Chef de Partie (CDP) \$55 000 for a 45 hr. week. Under the award this would be approx. \$64 000. Other grades of employment bear similar impact.

5.2 PUBLIC HOLIDAYS

While the Draft Report excludes Public Holiday rates I would like to make the following comment. Hospitality is a seasonal industry. Under the award flexibility exists for employers to change annual leave from 4 weeks a year to 6 weeks a year (trading off public holidays). This would alleviate current ad-hoc public holiday arrangements (of giving RDO's) for a more significant annual cost saving and improved employee benefit.

5.3 COST-SHIFTING OF EMPLOYMENT COSTING TO THE STATE

Comments have been made about the use of workers with families, mainly women, and students as part-time employees in HERRC industries. As a part-time hospitality employee, and a student, I will add this comment. Reduction of remuneration for employment will result in an increase in my Austudy payment. The Productivity Commission will need to detail an economic analysis of the cost-shifting to the State for workers receiving income support from the Government.

5.4 MARGINAL COST OF PENALTY RATES

The financial tools contained in Certificate Three in Hospitality and Commercial Cookery would suggest the marginal cost of penalty rates operates in the 3-8% range (given a 10% profit margin). Arguments that reducing penalties would increase opening hours or employment would require careful quantitative analysis.

6.0 FUNCTIONS OF FAIR WORK COMMISSION

6.1 ANALYTICAL ANALYSIS

Industrial Relations historically have been decided through an adversarial legal arrangement, or through a negotiated arbitration system. Either condition has the implication of two biased parties acting in self-interest. I welcome the Productivity Commissions statement about the need for a more analytical approach. The cost of economic and social science research would reduce inefficiency and improve productivity, for significant savings.

6.2 COMPLIANCE OF AWARD CONDITIONS

As an employee, I have always felt comfortable with working in enterprises that are part of their relevant professional association, since this means that I will be paid award minimum for my positions. This does not hold true for enterprises that are not part of the relevant professional associations. Research by Fair Work Australia (and predecessors) tends to bear this out.

PAYE earners have a direct relationship to government revenue. I recommend that the relevant Taxation Office be a more efficient award compliance vehicle.

7.0 CONCLUSION

The Draft Report does not indicate a position on other penalty rates for HERRC industries apart from day-time penalty rates. I address that in my recommendations

7.1 RECOMMENDATIONS

7.1.1 That the Productivity Commission set penalty rates in Hospitality, Restaurants and Cafes at 150% from Friday 7:00 PM to Monday 7:00 AM (removing week night rates). This results in a zero-sum change to employee's wages, while allowing for administrative cost savings. Economic and Social Science analysis will indicate as a productivity payment, this is low. Any further argument can be made to Fair Work Australia (FWA). Reducing penalty rates below this level will more than likely see a challenge made to FWA.

7.1.2 Quantitative analysis be made of the volume of trade in HERRC industries as an indicator of penalty rate fairness.

7.1.3 Economic impact analysis made of the cost-shifting to State if penalty rates are reduced

7.1.4 Award Compliance functions moved to the appropriate revenue agency of the Government

7.1.5 FWA set up a robust and substantial analytical research section