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Briefing Note:

April Holiday Cluster Highlights Income Losses From Reduced Penalty Rates

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Many Australians are eagerly anticipating a unique concentration of public holidays in coming days, which creates an opportunity for many workers to enjoy extended periods away from their jobs. The timing of the Easter holiday means that Easter Monday falls in the same work week as ANZAC day. Therefore, there is a ten-day period – stretching from Good Friday through Sunday, 28 April – during which many employees only have to work three days. Many Australians are now arranging to take those three days off: creating an extended 10-day holiday for the "price" of just three days leave.

Of course, many other Australians will be required to work during this period, and so for them the appeal of this coming period is diminished. Adding insult to injury, however, is the fact that their compensation for working during this period is being significantly reduced as a result on ongoing reductions in penalty rates for Sunday and public holiday work in the retail, accommodation, and food and beverage industries. As other Australians are enjoying an extra holiday season, people working in these sectors will receive pay packets substantially smaller than they would have been.

This briefing note estimates the combined income losses experienced by workers in the broader retail and accommodation/food & beverage sectors over the coming 10-day period, due to reductions in penalty rates for Sundays and public holidays imposed by the Fair Work Commission beginning in 2017. The reduction in penalties for public holidays (by an amount equal to 25% of base wages for most workers in these sectors) was fully implemented on 1 July, 2017. The reduction in penalty rates for Sunday work is still being phased in: a third reduction in the rate will occur on 1 July this year. And for workers in industries covered by the General Retail and Pharmacy awards, another reduction will occur on 1 July, 2020.

Over one-half million Australians are at work in these industries on a typical Sunday. The income losses experienced by most of these workers (both directly and indirectly) are substantial: presently amounting to about $16 million in lost wages for each public holiday, and over $8 million (at present) for a Sunday. The unique concentration of public holidays within the 10 days starting on Good Friday (amounting to a total of 6 holidays or Sundays in most states) will highlight the scale of those losses. Over that 10-day period, we estimate that wages will be $80 million lower than if penalty rates had been maintained. And the problem is getting worse, due to further coming reductions in Sunday penalties (scheduled on 1 July this year and, for industries covered by the General Retail and Hospitality awards, again next year). After 2020, once the Sunday penalty rate reductions are fully implemented, the loss in wages would equal $107 million for a corresponding 10-day cluster of holidays.

The coming cluster of public holidays dramatises the magnitude of income losses resulting from the penalty rate cuts, but those income losses are experienced throughout the entire year. In the current financial year (from 1 July 2018 through 30 June 2019), we estimate aggregate income losses at around $630 million. That loss will double once the Sunday penalty cuts are fully in place, to some $1.25 billion per year after 1 July 2020. In sum, this policy is imposing a substantial income loss on a group of workers who are already vulnerable to low and uncertain earnings.

Rolling Back Penalty Rates

In February 2017, following a report by the Productivity Commission and intense lobbying by industry representatives, the Fair Work Commission announced a plan to reduce the penalty rates paid to workers on Sundays and public holidays under five major retail and hospitality Modern Awards. Table 1 summarises the scale and timing of the reductions.

Table 1
Summary of Reductions in Retail and Hospitality Penalty Rates

Award	Status	Sunday Penalty Reduction		Holiday Penalty Reduction[1]
		Reduction[1]	Final Step	
General Retail (MA000004)	Perm.	-50%	1 July 2020	-25%
	Casual	-25%	1 July 2019	0 to -25%
Pharmacy (MA000012)	Perm.	-50%	1 July 2020	-25%
	Casual	-50%	1 July 2020	-25%
Fast Food (MA000003)	Perm.	-25%[2]	1 July 2019	-25%
	Casual	-25%[2]	1 July 2019	-25%
Hospitality (MA000009)	Perm.	-25%	1 July 2019	-25%
Restaurant (MA000119)	Perm.	na	na	-25%
	Casual	na	na	na

Source: Author's compilation from Fair Work Commission, *4 Yearly Review of Modern Awards: Penalty Rates, Transition Arrangements*, 5 June 2017.
1. Expressed as proportion of base wage. 2. Level 1 only.

The reduction in penalty rates for public holidays was implemented in one step, effective 1 July 2017. The rate was reduced by 25% of base wage for most covered workers across the retail and hospitality – with the exception of casual workers under the Restaurant award, and a few casual workers under the General Retail award (who were already receiving a lower tier holiday penalty[1]).

The reductions in penalty rates for Sunday work are being implemented in three or four stages, occurring on 1 July each year. At present, therefore, these reductions are only partly in effect, as we approach the upcoming cluster of holidays. Indeed, the biggest reductions in penalty rates are yet to come for many Sunday workers in these sectors. For permanent workers in industries covered by the General Retail award, and all workers covered by the Pharmacy award, the Sunday penalty has so far been cut by 20% of base wage (including reductions imposed on 1 July 2017 and 2018). The remaining reductions, totaling another 30% of base wage, will be imposed over the next two years (on 1 July 2019 and 2020). At that point their Sunday penalties will have been cut by 50% of their base wage. Workers in industries covered by the Fast Food and Hospitality awards, along with casual workers in industries covered by the General Retail award, are also in store for another 10% reduction in Sunday penalties as of 1 July 2019 – at which point they will have experienced a cumulative 25% reduction.

The monetary value of these penalty rate reductions depends on the level of wages workers are paid (since the penalty is expressed in percentage terms). For workers on the Level 1 wage specified in the General Retail award (currently equal to $20.79 per hour), the ultimate reduction in penalties will reduce their Sunday earnings by $10.40 per hour. Over a full 8-hour shift they lose $83; if they worked an 8-hour Sunday shift every week throughout the year, they would lose $4324 in annual income. Better-paid workers would lose more. Pharmacists, for example, would lose over $100 in penalty pay for an 8-hour Sunday shift, and over $5600 in annual income if they regularly worked Sundays. These reductions represent a significant income loss for workers who are, in general, already among Australia's lowest-paid workers.

Direct and Indirect Effects

Strictly speaking, the changes in penalty rates summarised in Table 1 apply to workers whose wages and conditions are specified under a Modern Award. The Fair Work Commission's ruling on penalty rates only legally covers workers under the five major retail and hospitality awards listed in Table 1. Award-covered workers constitute the majority of all workers in the affected sectors[2] – and likely even a larger proportion on Sundays and holidays (since more

[1] Prior to 1 July 2017, some casual retail workers received holiday wages equal to 275% of base wage, and some 250%; now all receive 250%.
[2] As of May 2018, award-covered workers constituted 68% of all employees in the broad retail sector (including pharmacies), and 72% of all employees in accommodation and food services. See ABS Catalogue 6306.0, Data Cube 2, Table 4.

senior workers, who are more likely to have individual contracts, generally prefer to avoid weekend and holiday work).

However, the economic impact of the Fair Work Commission's decision is certainly not limited only to award-covered workers. Workers employed under the terms of individual contracts or enterprise agreements also depend on the regulatory standards established through the Awards system. This is true both legally and culturally.

Legally, individual and collective agreements must ensure that workers are not disadvantaged compared to the minimum standards specified in the relevant Award. This requirement, known as the "better-off-overall test" (BOOT), has been applied more rigorously in recent years, following the FWC's decision to overturn major retail agreements which were found to violate BOOT principles (precisely because of inadequate penalty rates for weekend and holiday work). New enterprise agreements now must carefully track (or exceed) the provisions of Awards, including penalty rate provisions.[3] Individual contracts must also reflect the norms and benchmarks established by the penalty rate system – and they must also pass the BOOT test. By reducing the "hurdle" which individual or collective contracts must surpass in order to be compliant with Fair Work rules, reduced penalty rates will inevitably affect the incomes of non-award-covered workers in the relevant sectors.

Culturally, the erosion of the broad social expectation that working on Sundays or holidays embodies a special sacrifice and hence is worthy of additional compensation, will also spill over to compensation practices for other employees, including in other industries. For example, today even independent contractors (who are free to set their prices without regard to minimum labour standards) almost universally charge more (often much more) for work on Sundays and holidays. The erosion of legal protection for penalty rates for paid employees will eventually undermine that cultural expectation. Moreover, employers in other industries not affected by the FWC's 2017 decision on penalty rates are agitating strongly for the extension of similar treatment to their workplaces. In this context, the reduction in penalty rates in the broader retail and accommodation/food & beverage sectors sets a dangerous precedent that – if not reversed – is likely to spread to other parts of the economy, and perhaps also to Saturday penalty rates as well.

Therefore, whether immediately or over time, the erosion of the legal requirement that workers should be compensated for working anti-social hours (including Sundays and holidays) will eventually reduce incomes for all weekend workers in affected sectors – not just those employed under an Award. For this reason, the estimates below consider the impacts of the reduced penalty rates on all workers performing Sunday and holiday work in relevant industries.

[3] For example, new enterprise agreements in the retail sector directly mirror statutory penalty rates; future reductions in award-specified penalty rates will immediately affect those workers too.

Aggregate Wage Losses from Reduced Penalty Rates

Estimates of the aggregate income losses resulting from the reductions in penalty rates for Sunday and holiday work in affected sectors can be generated on the basis of the timetable of penalty rate reductions decreed by the Fair Work Commission, typical hourly base wages, and estimates of the number of workers in each sector affected by them. A detailed description of the methodology utilised in this computation is provided in the Appendix.

Analysis of unpublished data commissioned by the Centre for Future Work from the Australian Bureau of Statistics indicates that, on average, some 580,000 employees are at work on an average Sunday in the broader retail and accommodation and food and beverage sectors.[4] Not all of these workers are affected by the penalty rate reductions, but most are.[5] Assuming a base wage rate equal to the Level 1 wage specified in the General Retail and Fast Food awards, and assuming an average typical shift length for Sunday or holiday work of 6 hours, the estimated aggregate loss of income resulting from lower penalty rates can be calculated. The summary results are reported in Table 2.

Table 2
Wage Losses Over Easter/ANZAC Period
From Reduced Penalty Rates

Sector	Sunday & Holiday Employ-ment (000s)	Base Hourly Wage ($)	Wage Losses Per Day ($million)			Total Wage Losses Over 10-Day Easter/ANZAC Period ($million)	
			Holidays	Sundays			
				Now	*If Fully Phased In*	*Now*	*If Fully Phased In*
Retail	287.9	$20.79	$8.1	$5.7	$15.2	$43.8	$64.8
Accommo-dation/Food & Beverage	292.6	$20.79	$7.8	$2.7	$4.8	$36.5	$42.6
Total	580.5		$15.8	$8.5	$20.1	**$80.3**	**$107.4**

Source: Author's calculations from unpublished ABS data and Fair Work Commission, as explained in text. See Appendix for detailed methodology.

Because of the reduced holiday penalty rate, a total of close to $16 million is lost by workers in the retail and hospitality sectors for each holiday. At present, with the partly phased-in reductions in Sunday penalties, $8.5 million in wages is lost for each Sunday. The 10-day period beginning on Good Friday (19 April) includes a cluster of at least four public holidays

[4] This represents the average number of workers employed on *any given* Sunday. A larger number of workers works on *some* Sundays through the year, and hence the number of workers experiencing some income loss from the lower penalty rates will be larger than this.
[5] The Appendix describes the specific assumptions made to estimate the number of affected workers.

in most states,[6] and two Sundays. The total period thus includes 6 working days affected by reduced penalty rates; across the 10 days, workers will experience a cumulative loss of over $80 million in wages.

However, these losses would be worse in coming years, for two reasons: the reductions in penalty rates for Sunday work are still being phased in, and the base wage against which those (lower) penalty rates are calculated will increase. If we imagine a similar hypothetical cluster of 6 days (4 holidays and 2 Sundays) occurring after the full phase-in of lower penalty rates (effective 1 July, 2020), then the aggregate loss of income would rise to $107 million.

The substantial incomes lost by workers in these sectors in just 10 days highlights the significant impact of lower penalty rates on retail and hospitality workers – most of whom are already relatively poorly paid. However, while these income losses are especially painful during this unique cluster of holidays, they continue throughout the year. Considering the total of 52 Sundays and 12 public holidays experienced over the course of a year, workers' incomes will be reduced (in the current financial year, starting 1 July 2018) by an aggregate total of over $630 million. After 1 July 2020, once the Sunday penalty cuts are fully implemented, that annual loss of income will swell to an enormous $1.25 billion.

Economic and Social Consequences of Reduced Penalty Rates

The loss in penalty rates imposes a special burden on the workers who are required to work during Sundays and holidays – and who will not have the ability to enjoy the coming 'bonanza' of holidays alongside their families and friends. They are sacrificing leisure and family time to perform their jobs, and they deserve to be acknowledged and compensated for that sacrifice.

However, the consequences of reduced incomes for work on Sundays and holidays are not experienced solely by these workers; the ripple effects spread through the broader economy. Australia's economy is already experiencing an unprecedented period of wage stagnation. Since 2013, wages have been growing around 2% per year or less, representing the slowest sustained period of wage increases since the end of the Second World War.[7] Wages have barely kept up with inflation, implying zero growth in real wages for several years running. And real wages are lagging well behind real labour productivity, which has continued to advance by around 1% per year. The freeze in real wages produces in a shrinking share of total GDP flowing to Australian households, and growing household income inequality.

[6] National public holidays are specified for Good Friday, Easter Monday, and ANZAC day. State public holidays are proclaimed for Easter Saturday and Easter Sunday in ACT, NSW, Queensland, and Victoria; Easter Saturday is a holiday in South Australia and the Northern Territory. Neither Easter Saturday nor Easter Sunday are public holidays in Western Australia and Tasmania. Our assumption of 4 public holidays (the 3 national holidays plus one more for Easter Saturday) is thus less than the weighted average number of holidays across the country; hence our estimate of aggregate income losses is conservative.

[7] For a comprehensive overview of the causes, consequences, and potential solutions to the problem of wage stagnation, see the essays in Andrew Stewart, Jim Stanford and Tess Hardy, eds., *The Wages Crisis in Australia: What It Is and What to Do About It* (University of Adelaide Press, 2018).

Other macroeconomic consequences of wage stagnation include weak consumer spending, increased household indebtedness, and slower growth in government revenues.

Most of the workers employed on Sundays and holidays in retail and hospitality are women; affected workers are also disproportionately younger, and from disadvantaged communities (such as new immigrants). The significant reduction in incomes resulting from lower penalty rates, therefore, exacerbates the economic and social imbalances which are already undermining Australia's well-being. The reductions in penalty rates in the broader retail, accommodation and food & beverage industries target the very Australian workers who can least afford them.

Lower Penalty Rates Fail to Spur New Hiring

Business lobbyists pledged that reductions in penalty rates, and consequent reductions in overall labour costs, would spur an increase in employment in the affected sectors. The Fair Work Commission was influenced by that argument. With almost two years of experience since the first reductions in penalty rates, however, it is clear that the promised pay-off in jobs is not materialising. In fact, job-creation in the sectors which experienced reduced penalty rates has been much worse than in other sectors. This is especially obvious in the broader retail sector, which has added virtually no new jobs at all since the penalty rate reductions began in July 2017.

Table 3 reports aggregate job-creation in the broader retail and accommodation/food & beverage industries since the penalty rate reductions commenced. The ABS reports industry-specific employment data only on a quarterly basis; for our starting point we use May 2017 data (the final data point prior to 1 July 2017). We compare that starting point to employment levels in February of this year (most recent data point).

Table 3
Penalty Rate Cuts and Job-Creation

Sector	Job-Creation: May/17 – Feb/19	Percent Growth	Rank (of 19 sectors)
Total Economy	540,400	4.42%	
Retail	100	0.01%	17th
Accommodation & Food/Beverage	25,200	2.85%	13th
Sectors with No Change in Penalty Rates	515,100	5.12%	
Sectors with Reduced Penalty Rates	25,300	1.17%	

Source: Calculations from ABS Catalogue 6291.0.55.003, Table 4. Seasonally adjusted data.

During this 21-month period, employment in the entire retail industry was virtually unchanged – with just 100 jobs being added in almost two years. This is an infinitesimal gain (considering that the retail industry is one of Australia's largest employers, with almost 1.3 million workers). The accommodation/food & beverage sector performed better, adding 25,000 jobs in those 21 months: but this, too, was a modest expansion considering the large size of the sector (over 900,000 workers).

These two sectors account for over 17% of total employment in Australia, but contributed less than 5% of all the new jobs created since May 2017. Expressed as a rate of growth, employment in these two sectors grew much more slowly than in the broader labour market. The retail sector ranked 17th out of the 19 industries analysed in the ABS employment data – doing better only than two sectors (manufacturing and information-media) which shed workers during this period. The employment growth rate in hospitality was also much slower than for the economy as a whole.

The last rows of Table 3 break the overall labour market into two segments: the sectors (retail and accommodation/food & beverage) in which employers benefited from lower penalty rates, and the rest of the economy in which penalty rates were unchanged. The aggregate rate of job growth in the reduced-penalty-rate sectors (where employment grew barely 1% in 21 months) was about one-fifth as fast as job creation in the sectors in which penalty rates were unchanged.

The claim that lower penalty rates will spur faster job creation has been decisively disproven by real experience since the reductions came into effect. In practice, penalty rates are largely irrelevant to job creation – which depends instead primarily on macroeconomic, cyclical and structural factors. Especially important in this regard is the level of consumer demand for the output of each sector. Demand-side effects are especially strong in industries (like retail and hospitality) which are tied closely to the spending power of Australian households. By incrementally reducing disposable incomes for a large group of workers, at a time when wages and household incomes are already experiencing unprecedented stagnation, the penalty rate reductions have, if anything, undermined job creation in these sectors – not spurred it onward.

Conclusion

The reductions in penalty rates for Sunday and holiday work announced by the Fair Work Commission in 2017 were misguided, influenced by outdated economic models which wrongly assume that lower wages would lead to new hiring. In reality, the link between wage levels and employment is more nuanced and complicated; modern economic research has confirmed that regulated or minimum wage levels have little impact on employment, and in some cases higher minimum wages can actually lead to higher employment. The burden of lost incomes for Australians working on Sundays and holidays, however, is significant:

withdrawing many millions of dollars of lost wages for each Sunday or public holiday under the lower penalty rates.

The coming cluster of public holidays offers a unique and welcome opportunity for most Australians to enjoy a late-summer break from work. For those who must continue do their jobs, the least they can expect is that their sacrifice will be recognised. Because of lower penalty rates, however, they will experience an aggregate loss of income in the order of $80 million in the coming 10 days. And that loss will get bigger in the future, if the next stages of penalty rate reductions are allowed to proceed.

Appendix: Detailed Methodology of Aggregate Wage Loss Estimates

This section describes in detail the empirical methodology utilised to develop the estimates of aggregate income losses resulting from the reduction in penalty rates for Sunday and public holiday work, reported in Table 2 above.

First, an estimate of the number of employees typically working on a Sunday is developed on the basis of specially commissioned data regarding the incidence of weekend work obtained from the Australian Bureau of Statistics. This data reports weekend work by employees (excluding owner-managers) in 108 different industries at the 3-digit level of disaggregation, including six sub-sectors of retail, accommodation, and food and beverage service.[8] The data reports the number of workers who work Saturdays only, Sundays only, and both, during a reference week each quarter. We then calculated a 4-quarter average[9] of the number of employees who worked Sundays in those sectors. This is listed in the second column of Table 2. In total, an average of about 580,000 workers in retail and accommodation/food & beverage worked on Sundays in 2016-17 (the last period covered by the custom data set). Since employment has grown somewhat in both broad sectors since that time,[10] our calculation is conservative; the true number of employees currently working Sundays in the two sectors is likely larger than this. We assume that the number of employees working on each of the public holidays in April approximately equals the number of employees who would work on a normal Sunday; that assumption is also likely conservative, particularly for Easter Monday (when most retail and hospitality businesses operate as if it were a normal workday).

The loss of income from the penalty rate reduction depends on each worker's base wage. We utilise the lowest (Level 1) adult wage specified in the General Retail and Fast Food awards. As indicated in the third column of Table 2, this base wage currently equals $20.79 per hour in both of those awards. Our choice of the entry-level adult wage for our income loss

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[8] The custom data set is described more fully in our previous report, *Tip of the Iceberg: Weekend Work and Penalty Pay in 108 Australian Industries*, by Jim Stanford, Centre for Future Work, May 2017, https://www.futurework.org.au/weekend_work_and_penalty_pay_in_108_industries.

[9] The 4-quarter average covers late 2016 and early 2017, the most recent period covered by this data set at the time it was generated.

[10] Although as discussed below, the growth of employment in retail and hospitality has been much slower than in other sectors of the economy, despite the savings to employers arising from reduced penalty rates.

calculations is also conservative: since some affected workers in both sectors are paid according to higher-tier wages,[11] the true loss of income will be higher. For estimating lost incomes experienced after the penalty rate reductions are fully phased in (that is, after 1 July 2020), we assume that the base wage was increased by 3% in each of 2019 and 2020 (in line with likely increases in the minimum wage against which most award wage rates are determined).

The next step is to make a determination of the proportion of Sunday workers in each sector whose incomes are likely to be affected by the Fair Work Commission's decision. As discussed above, we assume that workers under enterprise agreements and individual contracts will also experience proportional reductions in penalty rates – in some cases immediately (because some enterprise agreements and individual contracts link their Sunday and holiday pay directly to the award specifications).

However, there are groups of workers within the two broad sectors which the FWC has excluded, and/or which are not relevant to the awards referenced in its decision. For example, there are two small sub-sections of retail employment (motor vehicle repair and parts, and non-store and commission-based retailing[12]) which are not affected by changes to the General Retail and Pharmacy awards. Casual Restaurant workers were excluded from the reduction in holiday penalty rates, while casual Hospitality and all Restaurant workers were excluded from the reduction in Sunday penalties. Finally, some casual Retail workers experienced no change in holiday penalties, and all casual Retail workers experienced a smaller (25%) reduction in Sunday penalties than their permanent counterparts (who experienced a 50% reduction).

These partial exclusions are reflected in the income loss estimates by applying a scaling factor against total Sunday employment levels in each of the two broad sectors, in line with the approximate proportion of total employees in each sector who are affected by the penalty rate reductions. We scale the retail employment numbers by factors of 0.9 for holidays, and 0.8 for Sundays, to reflect exclusions and the smaller Sunday reduction imposed on casual staff. We scale the accommodation/food & beverage employment numbers by factors of .85 for holidays, and 0.5 for Sundays, again to reflect groups of workers excluded from the penalty rate reductions.[13]

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[11] In the case of the Fast Food award, the reduced penalty rate for Sundays applies only to workers at the Tier 1 wage; for Fast Food workers on holidays, and for all workers in the Hospitality award and (for Holidays only) the Restaurant award, the reductions apply to higher-tier employees as well.

[12] These two sub-sectors account for a very small share, just 3%, of total employees working on Sundays in the broader retail sector.

[13] These scaling factors are derived as follows: Retail: On holidays assume that one-fourth of casual employees experienced no reduction. Since casual employees account for 38% of all retail employment (ABS Catalogue 6291.0.55.003, Data Cube EQ05), this eliminates just under 10% of all retail employees from the effects. On Sundays, we exclude half of casual employees (or 19% of all retail employees) on grounds that the reduction in penalties was half as large as for permanent staff. In both cases we also exclude 3% of retail employees who work in motor vehicle and non-store/commission retailing. Hospitality: casual workers account for 62% of all hospitality employees. There is no data publicly available regarding the proportion of hospitality employees working under the various awards that are affected by the FWC decision; we adopt the simplifying assumption

Estimated aggregate income losses for a single public holiday or a single Sunday are then computed as the sum of the number of Sunday workers (adjusted by the scaling factors) times the proportion of base wage which was lost due to the penalty rate reduction times an assumed average Sunday or holiday shift of 6 hours. For the post-2020 estimates, the calculation reflects both the further reductions in penalty rates scheduled for 1 July 2019 and 2020, and the increase in the base wage rate. The post-2020 estimates do not assume any change in total employment in each sector (suggesting that this estimate is still more conservative).

that half of those workers are employed in industries covered by the most broadly-applicable award (hospitality), with the remainder equally divided between fast food and restaurants. We assume further that 20% of fast food employees on Sundays and holidays are employed at wage Levels 2 or higher. On the basis of those ratios, the scaling factors reported above are derived, and then rounded to the nearest 5%.