

2015/07: Should Australia abolish penalty rates?

What they said...

'Penalty rates for 60 staff on Good Friday, Easter Sunday and Monday mean it is not profitable'
Janine Livingston, Best Western Hobart, general manager

'Australians are being subjected to a false and misleading campaign about penalty rates by employer groups in the lead up to Easter...The share of business income going to wages in retail and hospitality has fallen in recent years'
Ged Kearney, president of the Australian Council of Trade Unions

The issue at a glance

Over the 2015 Easter long weekend, the Australian Chamber of Commerce and Industry encouraged retailers and restaurateurs to take part in a publicity campaign against penalty rates.

Businesses were advised to put up posters in their shop windows as part of their Small Business: Too Big to Ignore campaign. The posters read: 'We're sorry that we will be closed. We'd like to be open to serve you. We'd like to give local people jobs. But the penalty rates are too high.'

On March 24, 2015, it had been announced that the Shop Distributive and Allied Employees Association (SDA) has reached an agreement with South Australian business groups for cuts to weekend and public holiday penalty rates for shop workers.

South Australia's chamber of commerce, Business SA, said it had agreed with the union on a 'template' enterprise agreement that retailers can use to seek agreements with employees, allowing businesses to open on Sundays and public holidays.

Meanwhile, the fate of penalty rates in Australia is currently under review on two fronts - through the Fair Work Commission and via a government-instigated Productivity Commission review.

Background

Overtime and penalty rates in Australia

In general terms 'overtime' concerns the rate of pay for work done beyond or in addition to the ordinary hours of work on any given day of the ordinary working week (Monday to Friday).

'Penalty rates' concerns the rate of pay for work done on a weekend (Saturday and/or Sunday) or on a public holiday. Each concept is derived from the premise that an employee is entitled to a premium rate, over and above their normal hourly rate, when required to work extended continuous hours of work, or when required to work on days and/or at times which are outside the ordinary hours of work as defined in the employee's Award.

In the restaurant industry overtime rates are typically an extra 12 per cent for working after normal business hours, and penalty rates are an extra 25 per cent for working Saturday, an extra 50 per cent for working Sunday, and two and a half times the normal salary for working on public holidays.

Health professionals typically get an extra 50 per cent for working on the weekend. Retail workers typically get 25 per cent for Saturdays, double for Sundays and two and a half times for public holidays.

Origin of penalty rates

In 1919, the then Commonwealth Conciliation and Arbitration Commission said Sunday penalty rates were compensation for working 'unsociable hours'.

In 1950, the New South Wales Commission said weekend penalty rates aimed to compensate disturbance of family and social life, religious observance and 'to discourage employers from working employees on weekends'.

Reviewing penalty rates

In December, 2014, the Fair Work Commission released a schedule of hearings to run throughout 2015 as part of a four-year review of all modern awards. It has confirmed it will examine proposals by employer groups to change penalty rates as part of the wider review. Employer groups had until February 13, 2015, to lodge submissions for any proposed changes to the award.

The Australian Council of Trade Unions president, Ged Kearney, has claimed that employer groups are making submissions in relation to the operation of penalty rates in a range of industries including retail, hospitality, pharmacy, fast food, dry cleaning, laundry, hair and beauty, amusements and events.

On December 19, 2014, the federal government announced the terms of reference for a Productivity Commission review of workplace laws under the Fair Work Act, including a consideration of conditions, wages and penalty rates.

Australian Chamber of Commerce and Industry chief executive officer Kate Carnell welcomed the announcement of the Productivity Commission review of the Fair Work Act, saying Australia needed a more modern and flexible workplace suited to its 24/7 economy. Ms Carnell stated, 'We need to make sure penalty rates are realistic and don't make businesses unviable.'

Internet information

On April 4, 2015, The Border Mail published an analysis by Anna Patty titled 'Battle over Easter weekend penalty rates - business groups accuse unions of fomenting boycotts'

The full text can be accessed at <http://www.bordermail.com.au/story/2990229/battle-over-easter-weekend-penalty-rates-business-groups-accuse-unions-of-fomenting-boycotts/?cs=7>

On April 3, 2015, The Mercury published a report titled 'Hotels attack penalty rates'

The report focuses on the views of a number of Tasmanian hoteliers and motel owners that penalty rates damage their businesses.

The text can be accessed at <http://www.themercury.com.au/news/tasmania/hotels-attack-penalty-rates/story-fnj4f7k1-1227289891627>

On April 2, 2015, The Australian Council of Trade Unions (ACTU) issued a media release titled 'Paying Easter penalty rates will not hurt business'

The release gives a series of facts and statistics intended to demonstrate that penalties rates do not have the adverse effects on business that some have claimed.

The full text of the release can be accessed at <http://www.actu.org.au/actu-media/media-releases/2015/paying-easter-penalty-rates-will-not-hurt-business>

On April 2, 2015, The Daily Telegraph ran an article titled '\$50 an hour penalty rates force businesses to stay shut this Easter'

The full text of the article can be accessed at <http://www.dailytelegraph.com.au/news/nsw/an-hour-penalty-rates-force-businesses-to-stay-shut-this-easter/story-fni0cx12-1227288423729>

On March 24, 2015, In Daily published an analysis titled 'SA penalty rates deal - no "champagne" moment'

The article looks at the mixed responses to the recent South Australian agreement regarding penalty rates.

The full text can be accessed at <http://indaily.com.au/business/2015/03/24/feds-back-historic-sa-penalty-rates-deal/>

On March 19, 2015, The Conversation published a comment by John Freebairn, Professor, Department of Economics at University of Melbourne, titled 'There could be more winners than losers in reducing minimum wages and penalty rates'

The full text of this comment can be found at <http://theconversation.com/there-could-be-more-winners-than-losers-in-reducing-minimum-wages-and-penalty-rates-38917>

On January 3, 2015, The Sydney Morning Herald ran a news report titled 'Employers step up efforts to get rid of penalty rates'

The full text can be found at <http://www.smh.com.au/business/employers-step-up-efforts-to-get-rid-of-penalty-rates-20150102-12gylv.html>

On December 24, 2014, The Sydney Morning Herald published an analysis by Anna Patty titled 'Penalty rates: Loadings for working weekends and holidays could be over'

The analysis details scheduled Productive Commission and Fair Work Australia reviews looking at penalty rates.

The full text can be accessed at <http://www.smh.com.au/nsw/penalty-rates-loadings-for-working-weekends-and-holidays-could-be-over-20141222-12c810.html>

On November 18, 2014, The Sydney Morning Herald published an article titled 'Work-life balance is getting worse for Australians: new report' which reported on the findings of the Australia Institute that a growing number of Australians are working unpaid overtime.

The full text of this report can be found at <http://www.smh.com.au/nsw/worklife-balance-is-getting-worse-for-australians-new-report-20141118-11otw6.html>

On August 19, 2014, The Conversation published a comment by Dan Woodman, TR Ashworth Senior Lecturer in Sociology at University of Melbourne, titled 'Before you call for penalty rates to be cut, try working a few Sundays'

The full comment can be accessed at <http://theconversation.com/before-you-call-for-penalty-rates-to-be-cut-try-working-a-few-sundays-30594>

In 2014 the Australian National University published an article by Phil Lewis, Professor of Economics at the University of Canberra titled 'Paying the Penalty? The High Price of Penalty Rates in Australian Restaurants'

This is a detailed treatment of the impact of penalty rates on this sector.

The full text can be accessed at <http://press.anu.edu.au/apps/bookworm/view/Volume+21,+Number+1,+2014/11311/lewis.xhtm>

On February 19, 2014, The Conversation published conflicting opinions on penalty rates from Phil Lewis, Professor of Economics at University of Canberra, and William Mitchell, Professor of Economics at Charles Darwin University,

The two opinions were published under the title 'Viewpoints: should penalty rates be abolished?'

The full text can be accessed at <http://theconversation.com/viewpoints-should-penalty-rates-be-abolished-22819>

On May 2, 2012, the New South Wales Business Chamber issued a media release titled 'Restaurants and cafes call for fair go on penalty rates'

The release details some of what it claims are the problems associated with paying penalty rates in New South Wales.

The full text can be accessed at <http://www.nswbusinesschamber.com.au/NSWBC/media/Misc/Regions/CCNSWBC---Restaurant-and-cafes-call-for-fair-go-on-penalty-rates-regional-media-release.pdf>

Arguments in favour of abolishing penalty rates

1. Penalty rates damage some businesses

The high cost of meeting penalty rates has been said to damage some businesses.

There are those who suggest that opening on public holidays is not profitable for them, yet they are compelled to remain open and bear the loss.

Best Western Hobart, general manager, Janine Livingston, has stated, 'Penalty rates for 60 staff on Good Friday, Easter Sunday and Monday mean it is not profitable.

However, we have to open and provide a service...It would hinder us all year if we closed for those periods because people would see us as unreliable.'

Harvey Norman's executive chairman, Gerry Harvey, has stated, 'It's very, very difficult to make money when you're paying unskilled people \$42 an hour [on a Sunday]...

If we put ourselves in a position in Australia where our wages and costs of doing business is higher than anywhere in the world we become uncompetitive and that leads to unemployment and we've just buggered ourselves.

Some businesses have claimed that the need to combat foreign competitors with lower wage structures means that they cannot afford to pay penalty rates.

The brickworks sector, for example, has claimed that it is struggling in the face of cheaper Asian-based competition. It has further claimed that paying penalties on weekends and other public holidays is eating into the companies' profits. Australia's biggest brickmaker, Brickworks, has made a submission to the Productivity Commission. It wants its workers to start at 4am, instead of the current 6am, without penalties and abolish weekend penalty rates. It claims to have the support of its 1500-strong workforce for the changes.

Another sector which has claimed to be adversely affected by penalty rates is the tourism industry. Under the banner of the National Tourism Alliance (NTA), thirteen tourism bodies have urged the Productivity Commission to recommend changing penalty rates.

Juliana Payne, the chief executive of NTA has claimed that tourism is a 'highly labour-intensive, 24/7 service industry' suffering under an 'unworkable' penalty rates system.

2. Penalty rates cause some businesses to deny customers service

Many businesses have claimed that penalty rates make it too expensive to open over the weekend or on public holidays and so they have to remain closed or to operate using a reduced number of staff.

Dozens of restaurants and small businesses in Sydney have indicated that they will close for the whole Easter long weekend because it is too expensive to pay junior staff \$350 a day (a rate which some have claimed they would be forced to pay).

Kate Carnell, the chief executive of the Australian Chamber of Commerce has stated, 'Customers lose because the services they want are harder to access, staff lose because they don't get the hours many are seeking at work and business proprietors lose because they get little benefit from the holiday traffic.'

Ms Carnell has further stated, 'We are encouraging small retailers and hospitality businesses to put up posters in their windows explaining to their customers why they are closed or why they are operating with reduced staff.'

The posters read, 'We're sorry we're closed today. We'd like to be able to serve you. We'd like to give local people jobs. But the penalty rates are too high.'

In a media release issued on May 2, 2012, the New South Wales Business Chamber stated, 'We all know of examples where our favourite cafs and restaurants are closed on Sundays. That's because the owner simply can't afford to pay staff penalty rates. Many actually lose money if they open for customers.

A major cruise liner came into Sydney Harbour earlier this year. Passengers disembarked to have breakfast on a Sunday morning, and within half an hour most had returned to the ship because there were such limited options for dining in Sydney on a Sunday morning.

It's actually embarrassing that a global city like Sydney makes this impression on international tourists, let alone its own residents.'

Tasmanian Hotels Association general manager, Steve Old, has claimed that some hospitality businesses would be forced to stay shut because the cost of doing business on public holidays was simply too high.

Mr Old has stated, 'While the impact of public holiday penalty rates is felt across the sector, operators in regional areas will be faced with the likely possibility that opening their doors will cost them money.

With public holiday penalty rates set as much as 275 per cent of an employee's base rate, the cost of providing drinks, meals and hospitality services is simply more than many businesses can realistically expect to take.'

3. Penalty rates reduce employment opportunities

It has been claimed that penalty rates reduce profit and thus reduce employers' capacity to employ additional labour. In particular, it has been claimed that penalty rates on Sundays and public holidays may simply make casual staff too expensive to employ.

One group of employers which has indicated it would definitely employ more staff are newsagents.

On April 23, 2014, the Australian Newsagents Federation (ANF) issued a media release stating that 'unlike other businesses who close, or introduce surcharges to cover penalty rate costs on Sundays and public holidays, the majority of Australia's 4000+ newsagents would have been open every day over Easter and will be open again this Anzac Day Friday.'

This is because newsagents have contractual obligations to publishers to deliver their products and limited scope to change set prices despite the additional cost.'

The consequence of this is that some 96 percent of newsagents themselves work hours they would prefer to give to employees if they could afford to do so.

In an article written in 2014, Phil Lewis, Professor of Economics at the University of Canberra, has written in relation to the caf, restaurant and catering services industry, '[P]enalty rates for 10pm-midnight work are projected to have reduced demand for labour by between 5 and 30 per cent below what would be the case with no penalty rates. Penalty rates for midnight-7am work have reduced demand for labour by between 7.5 and 45 per cent below what would be the case with no penalty rates. Penalty rates for work on Saturdays are projected to have reduced demand for labour by between 12.5 and 75 per cent below what would be the case with no penalty rates. Penalty rates for work on Sunday are projected to have reduced demand for labour by between (under the low-estimate scenario) 75 per cent and 100 per cent (under the high-estimate scenario). Penalty rates for public holidays are projected to have almost eliminated demand for hired labour.'

Professor Lewis has concluded from the above that if penalty rates were removed, 'There would unambiguously be more employment in the industry as turnover increased. There would be greater choice of shifts available. There would be more employment opportunities for the unemployed, with the potential for providing a stepping-stone into further employment.'

Some employees, although their wage rate may fall, may even receive higher total earnings without penalty rates since the potential to work a greater number of hours will increase.'

4. Penalty rates cause increased prices for consumers

It has been claimed that penalty rates cause an increase in prices charged consumers as employers attempt to defray some of their increased labour costs.

Port Macquarie restaurant owner Lou Perri has explained that his customers were being disadvantaged, as he was forced to raise prices on public holidays by 15 per cent to cover employee wages after penalty rates.

Mr Perri stated, 'The consumer is the one missing out because if it wasn't for penalty rates, we may be even able to cut prices because wage costs wouldn't be killing us.'

In an article written in 2014, Phil Lewis, Professor of Economics at the University of Canberra, has written in relation to the caf, restaurant and catering services industry, 'The biggest beneficiaries from removing penalty rates would be consumers. They would pay lower prices, eat out more and at times which better suit their lifestyle.'

The same point was made by John Freebairn, Professor, Department of Economics at University of Melbourne, in an opinion piece published in *The Conversation* on March 19, 2015.

Professor Freebairn argues that one of the consequences of removing penalty rates would be a 'flow to consumers... of lower prices and greater availability and choice for products which are intensive users of low skill and penalty rate labour inputs. These industries are highly competitive, and most of any cost reduction, including lower labour costs, is passed forward to buyers as lower product prices. These benefits of lower prices and greater choice are spread across most citizens.'

5. Penalty rates are no longer relevant

Opponents of penalty rates argue that workers no longer need to be compensated for working non-standard hours. They claim that with changing work patterns, the concept of standard hours is becoming an anachronism.

In an opinion piece published in *The Conversation* on February 19, 2014, Phil Lewis, Professor of Economics at the University of Canberra, states, '[P]enalty rates have their origins in the early 1900s in a labour market quite different to that of much of the Australian labour market today.'

Professor Lewis then goes on to describe the employment conditions which used to justify the awarding of penalty rates. 'The Australian economy used to be characterised by mostly males working full-time in industrial jobs. There was little part-time or casual work. Working married women and jobs with flexible hours were rare. Most retail outlets shut at midday on Saturday and reopened on Monday. The weekends were for many the only time available for socialising, recreation, participating in sport and worship.'

Professor Lewis argues that these conditions no longer apply and that many Australians now actually prefer to work outside supposedly conventional hours, while the uses to which weekend time is put by a large minority of Australians has changed dramatically.

Professor Lewis argues, 'While the majority may work standard hours and the weekends are the traditional periods for "socialising, recreation, participating in sport and worship", this is not true for a large minority of workers.'

The ABS Time Use Survey indicates that even under this extremely broad category of sport and outdoor activity, the time spent, even on weekends, is not large and pales into comparison with other activities. For most people, working on

weekends would not significantly impose on their time spent on sport and outdoor activities.'

In another article published in 2014, Professor Lewis summarised his view of the situation in the following manner, 'The Australian economy today is dominated by the service sector - part-time work, casual work, working women and flexibility are the norm for many. Also, the social mores which defined Australian society have to a large degree changed radically over time. Among the most relevant here are the growth in participation in education and the consequent supply of part-time and casual labour, participation in the workforce of women with children, and the use of leisure time for other activities, including church attendance and participation in sporting activities. Both of the latter account for a very small percentage of people's leisure time on weekends.'

Arguments in favour of retaining penalty rates

1. Employees deserve compensation for working outside usual hours

It has been claimed that working outside conventional working hours disrupts the lives of employees. It is more difficult to socialise with friends and family and to pursue sports, hobbies and other interests. Groups representing employees claim that monetary compensation, in the form of penalty rates, should be paid to those who suffer this disturbance to their lives.

Ged Kearney, the president of the Australian Council of Trade Unions, has stated, 'While the rest of us wind down for the Easter break, millions of Australian workers will give up their family time and they should be compensated for that.' According to the University of South Australia's 'Australian Work and Life Index 2014' most Australians work Monday to Friday between 8am and 6pm. The authors of the University's report claim, '[T]hose who work unsocial hours have worse work-life interference than those who do not. Working on weekends is worse for work-life interference than working weekdays. Furthermore, working on a Sunday is associated with worse work-life interference than on Saturdays or weekdays. Working nights is also associated with worse work-life interference.'

Alex White, secretary of Unions ACT, has stated, 'As a community, we still look at weekends, Sundays and public holidays like Easter as important days of rest. Church attendance may be declining, but most Australians consider Sundays and public holidays as essential to rest, relax and spend time with loved ones before the work week begins.'

Dan Woodman, a lecturer in Sociology at the University of Melbourne has stated, 'The major events in family life, such as birthday parties, and the events that people want to attend with friends, like going to the football, continue to be overwhelmingly scheduled on Friday nights or Saturday and Sunday.'

One of Woodman's interview subjects stated, 'You're working when your friends, family or partner are at home, and you can't just go away on weekends or public holidays.' Another claimed more succinctly, 'No social life, bad sleeping patterns and no friends.'

Some have suggested that the wide-spread employment of women has worsened the burden that working non-conventional hours places on families. In an opinion piece published on April 5, 2015, Peter Martin, the economics editor for The Age, stated, 'In earlier years it didn't much matter if one member of the household worked outside standard hours. There was typically only one earner in each household, almost always the man.

If that single earner was made to work at night or on weekends it wouldn't much harm his ability to get together with his wife. She would be at home whenever he was at home.

Not anymore. These days if one partner works outside standard hours and the other works within them the penalty is real.'

2. Many low-paid workers rely on penalty rates

Employees in the broader industry sector, accommodation and food services, have the lowest average weekly total cash earnings in the Australian workforce and rely heavily on penalty rates for additional income.

In a media release issued on April 2, 2015, The Australian Council of Trade Unions (ACTU) stated, 'Even if most retail and hospitality employees worked a full time week at double time for every hour worked, they would still be paid less than full time average weekly total earnings.'

The release gave the instance of a waiter working for a celebrity chef, who would see his income slashed by 30% from \$41,000 down to \$29,000 if penalty rates were abolished.

United Voice has given another example indicating that a full-time cleaner at a hotel working their ordinary hours from Sunday to Thursday is paid a minimum of \$726.54 a week, or \$37,882 a year. If his Sunday penalty rates were scrapped, his wage would be cut by \$86.34 a week and his annual wage would be reduced to \$33,380 before tax.

United Voice gave another of an adult waitress at a caf or restaurant who only gets paid \$16.85 an hour for her work Monday to Friday, but if she works one of her ordinary shifts on a Sunday, she makes \$25.28 an hour instead. This is equivalent to just \$695.10 a week before tax. If her Sunday penalty rate was scrapped, her weekly wage would go down to \$640.20, which is a wage cut of \$54.90 a week, or \$2862 a year, on an already low salary.

The April 2, 2015, ACTU media release quoted Australian Bureau of Statistic figures which show that as of November 2014 the level 4 rate of pay in the General Retail, Restaurants and Hospitality Awards is \$746.20, while Full Time Adult Average Weekly Total Earnings as at 14 November were \$1,539.40. These figures are intended to indicate how low the rate of pay received by workers in these industries is, and therefore, how reliant those working in these industries are on the penalty rates they receive.

Ged Kearney, the president of the ACTU, has stated, 'We know most retail and hospitality workers are paid less than Full Time Average Weekly Total Earnings and working over the Easter break allows them extra disposable income to spend in shops and cafes - the very businesses that are driving this attack.'

The ACTU release notes that even outside the hospitality industry, losing penalty rates would mean a dramatic pay cut

for many workers. The release refers to the situation of a nurse in a South Australian hospital who gets 22.9% of his or her income from penalty rates. Losing them would mean an annual pay cut of \$14,000 to \$22,000.

3. Penalty rates do not harm industry

It has been claimed that the supposed harm done business and industry by penalty rates is an exaggeration.

In a media release issued on April 2, 2015, The Australian Council of Trade Unions (ACTU) stated, 'Australians are being subjected to a false and misleading campaign about penalty rates by employer groups in the lead up to Easter...

Despite no evidence to support their claims, employers in the growing sectors of retail and hospitality are calling for penalty rates for working over the Easter break to be cut, citing undue pressure on business.'

Supporters of penalty rates argue that wages do not constitute the severe restriction on growth that many business claim and that their significance as a percentage of total costs has declined over the last decade.

Ged Kearney, the president of the Australian Council of Trade Unions, has stated, 'The business community, backed by the Abbott Government, is using the Easter break as justification to attack penalty rates by saying it's unaffordable to hire more workers. The truth is the share of business income going to wages in retail and hospitality has fallen in recent years.'

In its April 2, 2014 media release, the ACTU noted, 'Total wages share in food and accommodation was 78 per cent in 2013-14, down from a peak of 87 per cent in 1997-98. In retail, the wages share has fallen from a peak of 79 per cent in 1997-98 to just 73 per cent in 2013-14.'

Supporters of penalty rates further claim that the increased consumption among workers who receive penalty rates benefits the Australian economy.

In the same media release issued on April 2, 2015, The Australian Council of Trade Unions (ACTU) stated, 'What employer groups omit is paying workers penalty rates for working over Easter benefits businesses long term as it will increase disposable income for some of the country's lowest paid workers which, in turn, will be spent in local businesses.'

It has also been noted that the restaurant industry, which pays significant penalty rates to its employees is growing. Over the past five years spending at restaurants and cafes has climbed at twice the rate of spending in supermarkets.

Employment in the restaurant industry climbed 9 per cent during five years in which overall employment climbed 7.5 per cent. When the Bureau of Statistics examined the accommodation and food service industry it found gross operating profits amounted to 11 per cent of total sales, almost twice that of retail industry (6 per cent) and a good deal more than the construction (8 per cent) and manufacturing (7 per cent). The industry is twice as profitable as it was 15 years ago.

4. Restaurants can charge higher prices to compensate for penalty rates

Restaurants and cafes are usually small business that are particularly affected by having to pay their staff penalty rates.

They are therefore able to impose a Sunday surcharge of 10 to 20 per cent. A few years ago the Australian Competition and Consumer Commission declared the practice illegal unless the restaurants printed separate weekend menus. Last year Parliament legislated to remove the requirement, but restaurants still need to prominently display the size of the surcharge on their menus.

The manager of Sydney's Deus Caf, Greg Lo Presti, has explained that diners who expect to eat out on those days when penalty rates apply should expect to pay a premium for their meal.

Mr Lo Presti has stated, 'It's vital. We wouldn't be open without it.'

We're a very labour-intensive business and we pay the penalty rates and therefore we need to charge that surcharge.'

Federal Labor MP Andrew Leigh has stated, 'Anyone with a bit of decency instinctively understands that their pleasant brunch requires the baristas and waitstaff to spend time away from family and friends. Few decent people begrudge a caf that puts a surcharge on the menu for Sundays and public holidays.'

This surcharge appears to be quite well-accepted by a majority of customers who recognise that they need to pay an additional impost to cover the cost of service outside standard hours.

In an opinion piece published in Riot Act on September 30, 2014, Alexandra Craig stated, 'I don't mind paying a surcharge...We have pretty good workplace relations laws in Australia which we should be incredibly thankful for and yes, if we work on a Sunday or a public holiday when everyone else gets the day off, we should get a little bonus for that. That seems fair enough, right? The caf owner feels the need to put a surcharge on the days when they're bound by law to pay their staff extra.'

5. Many employees are already working additional, unpaid hours

Opponents of the abolition of penalty rates argue that many Australians already work many hours for which they are not compensated.

In November 2014 the Australia Institute released the results of a survey which indicated that the average full-time worker is doing six hours of unpaid overtime each week worth an estimated \$9471 a year.

The survey of close to 1000 people around the country found 46 per cent of people are expected to work additional hours and 27 per cent said their position had become insecure. Others 'volunteered' to work unpaid overtime because they felt their chances of promotion or the security of their employment would be enhanced as a result.

The director of research for the Australia Institute has claimed that there is a growing disjunction in people's work-life balance with many employees feeling coerced to work longer hours than they would willingly choose.

A lack of work-life balance is cited as a cause of ill health among employees and the conductors of this research believe it is a problem that needs to be addressed.

42 percent of those surveyed claimed that their work-life balance had grown worse over the last five years.

The executive director of the Australia Institute, Richard Denniss, has claimed that many Australians were giving their time freely to organisations that are legally obliged to pay for it.

Dr Denniss further stated, 'It's time that employers and industry groups started to talk about how they are going to tackle this problem. It's time that governments took this problem a lot more seriously.'

Opponents of the abolition of penalty rates claim it is merely a further attempt to exploit workers' insecurity about their employment in order to reduce their work conditions.

Claims that the 40 hour week and 9 to 5 employment are disappearing may have some validity; however, social scientists argue that this is not a development that most workers appear to want.

Further implications

The South Australian Shop, Distributive and Allied Employee Association has arrived at a groundbreaking agreement with Business SA to slash weekend penalty rates, in exchange for a higher base rate of pay.

The agreement, which is voluntary, is being held up as a template by some other employer groups. Others are far less satisfied.

The 'template agreement' allows for the reduction of penalty rates on Sundays from a 100 percent loading to a 50 percent loading. It also reduces loadings on public holidays from 150 percent to 100 percent.

Also under the agreement, penalty rates would be abolished on Saturdays as would overtime rates on weekday evenings. In return, the agreement gives workers a guaranteed three percent annual pay rise and the right to refuse to work on the weekend.

If adopted widely the agreement would affect up to 40,000 employees.

The agreement replicates many similar arrangements arrived at with smaller unions. Not all employer groups have seen it as a boon and many are looking for a more definitive action against penalty rates.

This agreement, if it were to become widespread, might act against the casualisation of the workforce. It reduces the incentive for employees to take up weekend work and makes it relatively more attractive to work standard hours. Those working standard weekdays have acquired a guaranteed, on-going pay rise without the need to work 'unsociable' hours. This is likely to result in only those for whom weekend work is a genuinely preferred option taking it up.

This is a quite different arrangement from that which has been promoted by employer groups over the last several years. The arrangement they have been seeking to have accepted and made law seeks to replace the above penalty rates with a penalty rate that only operates if an employee is required to work on more than five consecutive days. This would mean that employees need never be offered penalty rates. All an employer would need to do is ensure that no employee works more than five days in a row. Such an arrangement would clearly be far cheaper for an employer as it comes with no requirement that there be an on-going base pay rise.

Newspaper items used in the compilation of this issue outline

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<http://www.theaustralian.com.au/opinion/columnists/gutless-government-hoists-white-flag-on-penalties/story-fnbkvnk7-1227245301842>

The Australian: March 14, 2015, page 10, news item by A Hepworth, 'Penalty rates "help vulnerable"'.
<http://www.theaustralian.com.au/national-affairs/industrial-relations/penalty-rates-help-vulnerable-workers/story-fn59noo3-1227262109920>

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<http://www.theage.com.au/comment/too-many-people-are-overworked-or-underworked-20150309-13y57x.html>

The Australian: March 20, 2015, page 6, Judith Sloan comment, 'BCA offers novel fix to the penalty-rate issue'.
<http://www.theaustralian.com.au/opinion/columnists/bca-offers-novel-fix-to-the-penalty-rate-issue/story-fnbkvnk7-1227270188903>

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