

## 2017/02: Should penalty rates for Australians who work on Sundays be reduced?

### What they said

*There is a disutility [inconvenience] associated with weekend work above that applicable to work performed Monday to Friday though the extent of the disutility is much less than in times past*

The Fair Work Commission justifying its decision to reduce Sunday penalty rates

*Those of us who dont work on [Sunday] now want to have the lowest-paid working in shops and cafes in order to serve us on our day off, and receive less pay for doing so*

Greg Jericho, commentator for The Guardian

### The issue at a glance

On February 23, 2016, the Fair Work Commission announced that Sunday penalty rates paid in the retail, fast food, hospitality and pharmacy industries will be reduced from existing levels, which, in some cases, are as much as "double time".

Most of the pay cuts are intended to take effect from July, and some will be phased in over time.

Full-time and part-time workers in retail will have their Sunday penalty rates dropped from 200 per cent to 150 per cent of their standard hourly rate, while casuals will go from 200 per cent to 175 per cent.

Hospitality employees will receive a reduction in Sunday pay from 175 per cent to 150 per cent, while casual hospitality workers' pay will remain unchanged.

Fast-food employees' Sunday rates will go from 150 per cent to 125 per cent for full-time and part-time staff, and casuals will go from 200 per cent to 175 per cent.

Holiday penalty rates for full-time and part-time employees in hospitality and retail will also be reduced from 250 per cent, or "double-time and a half", to 225 per cent.

The changes do not extend to restaurants and cafes; however, restaurant employer groups have the opportunity to try to mount another case.

Employer representatives have welcomed this decision as the removal of a break on customer service and a move which will see an increase in Sunday staffing; while workers representatives have condemned the decision as an attack on the living conditions of those among the lowest paid in the workforce.

### Background

(The information below has been taken from the Fair Work Ombudsmans Internet page accessed at <http://www.fairwork.gov.au/pay/penalty-rates-and-allowances> and from Australian Business Consulting Solutions Workplace Info Internet page accessed at <http://www.fairwork.gov.au/pay/penalty-rates-and-allowanceshttp://workplaceinfo.com.au/payroll/payments-and-expenses/penalty-payments>

The information on the Fair Work Commission was drawn from the Wikipedia entry titled Fair Work Commission. The full text of the article can be accessed at [https://en.wikipedia.org/wiki/Fair\\_Work\\_Commission](https://en.wikipedia.org/wiki/Fair_Work_Commission))

### Definition and scope

Penalty rates or payments refer generally to those payments made to employees who work outside the ordinary day-time hours of the business e.g. on weekends and public holidays.

Employees often get a higher pay rate when working:

weekends

public holidays

overtime

late night shifts or

early morning shifts.

There are some workplace arrangements that affect how penalty rates and allowances are paid. These include:

salary payments

employment contracts

individual flexibility agreements (IFAs)

a guarantee of annual earnings.

The overall amount an employee is paid under one of these arrangements must be at least the same as the amount they would be paid under their award.

Enterprise bargaining has impacted on penalty rates in many businesses and has also changed the traditional approach to penalty rates adopted by awards. So, for example, work times that used to attract penalties are no longer treated as penalty times (for example, Saturday work).

### Source of entitlement

An entitlement to penalty payments can be found in awards and agreements.

### Cumulative penalty rates

A limitation is usually imposed on the accumulation of penalty rates paid in respect of overtime, Sunday and holiday work and shift work.

An employee who works overtime on a night shift might under one provision of the award concerned be entitled to time and a half or double time and under another provision to a shift allowance for the night shift.

If the double-time maximum is prescribed by the award in question, however, the employee would not receive more than double rates whatever the period of overtime might be or the time at which it is worked.

Most awards prescribe a limitation on the extent to which any extra rates included may accumulate when two or more rates operate at the same time.

In the case of special rates or disability allowances, for example, it is generally provided that when two or more of such rates are payable simultaneously only the highest of the rates shall be paid.

### The Fair Work Commission

The Fair Work Commission (FWC), formerly known as Fair Work Australia (FWA), is the Australian industrial relations tribunal created by the Fair Work Act 2009 as part of the Rudd Government's reforms to industrial relations in Australia. Operations commenced on 1 July 2009 as the successor of the Australian Industrial Relations Commission. Ms Bernadette O'Neill is its current general manager.

FWC's functions include the setting and varying industrial awards, minimum wage fixation, dispute resolution, the approval of enterprise agreements, and handling claims for unfair dismissal. It is the successor body to the Australian Industrial Relations Commission, though it also performs functions previously performed by the Workplace Authority and the Australian Fair Pay Commission.

### **Internet information**

On March 26, 2017, The Age published a report titled Penalty rate cuts could blow \$650m hole in federal budget: Australia Institute

The report details the findings of Professor Richard Denniss of the Australia Institute regarding the negative impact reducing penalty rates might have on the Australian economy.

The full text can be accessed at <http://www.theage.com.au/federal-politics/political-news/penalty-rate-cuts-could-blow-650m-hole-in-federal-budget-australia-institute-20170326-gv6mnc.html>

On March 20, 2017, The Sydney Morning Herald published a report by Anna Patty titled Underemployment skyrockets to 1.1 million Australians

The report details the most recent figures on under-employment in Australia.

The full text can be accessed at <http://www.smh.com.au/business/workplace-relations/underemployment-skyrockets-to-11-million-australians-20170317-gv09bw.html>

On March 6, 2017, Hospitality Magazine published a comment and analysis by Ray Markey, Professorial Fellow and former Director of the Centre for Workforce Futures, Macquarie University. The piece is titled Explainer: where to from here on penalty rates?

It considers arguments for and against the recent decision and suggests what future directions might be followed.

The full text can be accessed at <http://www.hospitalitymagazine.com.au/management/explainer-where-to-from-here-on-penalty-rates>

On March 5, 2017, The Huffington Post published a report titled Pauline Hanson Backs Cuts To Penalty Rates

The report quotes the leader of One Nation explaining in some detail why she believes the cut to Sunday penalty rates is necessary.

The full text can be accessed at <http://www.huffingtonpost.com.au/2017/03/04/pauline-hanson-backs-cuts-to-penalty-rates/>

On March 3, 2017, the Council of Small Business of Australia (COSBOA) issued a media release titled Small Businesses Threatened by Unions Penalty Rates Campaign. The release complains of the supposed intimidatory campaign being conducted via the social media by unions that are attacking small businesses that have publicly supported the reduction in Sunday penalty rates.

The full text of the release can be accessed at <http://www.cosboa.org.au/blog/small-businesses-threatened-by-unions-penalty-rates-campaign/>

On March 1, 2017, Eureka Street published a comment by Fatima Measham arguing that many of the advantages claimed for reducing penalty rates were unlikely to occur and that the cut would harm lowly paid workers. The piece is titled Swift injustice in modest penalty rates proposal

The full text of this article can be found at <https://www.eurekastreet.com.au/article.aspx?aeid=50702#.WN8bg2clFVc>

On February 27, 2017, Independent Australia published a comment by John Passant, a former Assistant Commissioner of Taxation. The point of view is titled Penalty rate cuts: because lowest paid workers aren't exploited enough

The comment examines wage rates among those working in the hospitality and retail industries and argues against the cutting of Sunday penalty rates.

The full text can be accessed at <https://independentaustralia.net/politics/politics-display/penalty-rate-cuts--because-lowest-paid-workers-arent-exploited-enough,10058>

On February 26, 2017, The Guardian published a comment by Greg Jericho titled Sundays aren't so special according to the Fair Work Commission

The opinion piece argues against the Fair Work Commissions decision to reduce Sunday penalty rates.

The full text can be accessed at <https://www.theguardian.com/business/grogonomics/2017/feb/26/sundays-arent-so-special-according-to-the-fair-work-commission>

On February 24, 2017, The Australian Financial Review published a comment by Professor Phil Lewis, Director of the Centre for Labour Market Research at the University of Canberra, titled Lower penalty rates mean more jobs and more productivity

The comment argues for the economic advantages to be gained from reducing penalty rates. The full comment can be accessed at <http://www.afr.com/news/policy/industrial-relations/lower-penalty-rates-mean-more-jobs-and-more-productivity-20170224-gukuk9>

On February 23, 2017, The Sydney Morning Herald published an article by Nick Toscano and Anna Patty titled Penalty rates for Sunday, holiday work to be slashed after landmark decision by Fair Work Commission.

The full text can be accessed at <http://www.smh.com.au/business/workplace-relations/penalty-rates-for-sunday-holiday-work-to-be-slashed-after-landmark-decision-by-fair-work-commission-20170222-guj8f3.html>

On February 23, 2017, The Australia Institute issued a media release titled Cutting penalty rates will reinforce wage stagnation suggesting the depressing effect a reduction in penalty rates would have on Australian wages and the economy more generally.

The full text of this document can be accessed at <http://www.tai.org.au/content/cutting-penalty-rates-will-reinforce-wage-stagnation>

On February 23, 2017, The Institute of Public Affairs issued a media release titled FWC decision means more work opportunities. The Institutes release suggests that reducing the Sunday penalty rate will allow business to put on more staff.

The full text of this document can be accessed at [http://ipa.org.au/portal/uploads/IPA\\_Media\\_Release\\_AL\\_FWC\\_Decision\\_Means\\_More\\_Job\\_Opportunities\\_170223.pdf](http://ipa.org.au/portal/uploads/IPA_Media_Release_AL_FWC_Decision_Means_More_Job_Opportunities_170223.pdf)

On February 23, 2017, Lifehacker published a comment by Serena Yu, Senior Research Fellow, University of Technology Sydney and David Peetz, Professor of Employment Relations, Griffith University.

The opinion piece is titled Sunday Penalty Rate Cuts: Why The Justifications Don't Add Up

The full text can be accessed at <https://www.lifehacker.com.au/2017/02/are-sunday-penalty-rates-really-a-job-killer/#SwYsiHXfRzXsKcyx.99>

On February 23, 2017, the Fair Work Commission handed down its penalty rates case decision. The Commissions decision and the justifications offered for it can be accessed at <https://www.fwc.gov.au/awards-and-agreements/modern-award-reviews/am2014305-penalty-rates-case#field-content-1-heading>

On August 20, 2016, The Australian published a comment and analysis by Paul Cleary titled Low-wage, part-time jobs the new normal in Australia

The article looks at current employment trends in Australia.

The full text can be accessed at <http://www.theaustralian.com.au/business/low-wage-parttime-jobs-the-new-normal-in-australia/news-story/7c068386946818e6164589698165c981>

On March 21, 2016, The Conversation published a report by Michelle Grattan titled Penalty rate cut will hurt economy without helping business: Labor

The report outlines the arguments put by the Labor opposition in its submission to the Fair Work Commission opposing a reduction in penalty rates.

The full text of the article can be accessed at <https://theconversation.com/penalty-rate-cut-will-hurt-economy-without-helping-business-labor-56571>

On August 17, 2015, Hospitality Magazine ran a fact analysis produced by Alan Duncan, Director, Bankwest Curtin Economics Centre and Bankwest Research Chair in Economic Policy at Curtin University. The piece is titled FactCheck Q A: are a lot of cafes and restaurants closing because of Sunday penalty rates? It finds no conclusive evidence for penalty rates forcing cafes and restaurants to close.

The full text of this article can be accessed at <http://www.hospitalitymagazine.com.au/management/factcheck-q-a-are-a-lot-of-cafes-and-restaurants-c>

On August 10, 2015, The Sydney Morning Herald published an opinion piece by Ross Gittins titled Don't be sure lower penalties mean more jobs

The comment argues against the proposition that reducing penalty rates will increase employment.

The full text can be accessed at <http://www.smh.com.au/business/dont-be-sure-lower-penalties-mean-more-jobs-20150806-giti4j.html>

### **Arguments in favour of reducing Sunday penalty rates**

1. A reduction in penalty rates will enable employers to put on more staff.

Supporters of a cut in penalty rates argue that reducing employers costs will enable them to open on Sundays or to put on more staff on Sundays and so to provide additional jobs.

Conservative Liberal backbencher Eric Abetz has stated, Today's decision will be of benefit to the tens of thousands of young Australians who want to work on weekends who have increasingly found that businesses haven't been able to afford opening their doors on Sundays.

Aaron Lane, a fellow at the Institute of Public Affairs, has similarly argued that reducing Sunday penalty rates will increase Sunday work and make existing jobs more secure. Lane has stated, Penalty rates are a penalty on jobs. The higher the penalty, the higher the barriers are into employment - putting the job market further out of reach for the most disadvantaged Australians.

There are businesses right around the country that have stopped trading on Sundays because penalty rates are prohibitively high. Case after case, we hear of family-owned small businesses that run on skeleton staff on a Sunday because they are unable to afford the extra penalty rates.

James Pearson, chief executive officer of the Australian Chamber of Commerce and Industry, has argued for the importance of reducing penalty rates as a job creation measure given the depressed state of the Australian jobs market. Pearson has noted the 725,000 Australians out of work, including 259,000 young people.

Pearson has argued, Reducing penalty rates for businesses in retail and hospitality will give them greater capacity to open their doors longer, take on more staff and give them more hours. The Restaurant and Catering Association found it could create 40,000 jobs.

2. Consumers access to the hospitality and retail industries and the quality of service they receive will improve

It has been argued that those recreating on Sunday and seeking the services of pharmacies and other retail outlets, cafes and other hospitality venues will be better provided for. It has been claimed that more venues will be able to operate on a Sunday and staff levels will be higher so service will be better.

It has also been argued that goods and services may well be offered to consumers at a lower than the current rate on a Sunday. According to this argument, when Sunday penalty rates are reduced the surcharges presently imposed in many eateries will also be reduced.

This point has been made by John Freebairn, professor of economics at the University of Melbourne, who has stated, Clear gainers from lower Sunday penalty rates will be households and consumers. They will have access to a larger range of goods and services throughout the whole week, and some prices will be lower than otherwise.

It has also been claimed that the quality of service offered will improve because reduced penalty rates on Sundays will enable employers to use more experienced employees on this day. With current penalty rates in place, employers claim they cannot afford to use their more expensive, experienced staff.

Fred Harrison, chief executive of Ritchies IGA, the largest independent grocer across New South Wales, Victoria and Queensland has claimed he is looking forward to being able to put some more experienced staff back on the weekend roster. Mr Harrison has claimed that the ability to employ these more skilled staff will enable Ritchies to provide a higher level of service than is currently possible on Sundays.

Mr Harrison further stated, We are still going to employ those 15, 16 and 17-year-olds as we always have but this will be a bit of a win for our older casuals.

Citi's head of research Craig Woolford has stated, The reality is retailers will add additional staff on Sunday and may pass some [savings] back through lower prices.

The Business Council of Australia's chief, Jennifer Westacott, has stated, The onus is now on employers to demonstrate that modest reductions of this kind can mean more hours for workers and better service for customers.

3. Sunday employment is no longer a significant imposition on workers

It has been claimed that the social and cultural conditions that once made Sunday work disadvantageous for workers no longer apply and so workers do not need to be compensated with additional wages for working on Sundays.

Phil Lewis, Professor of Economics, University of Canberra, has explained the origin of penalty rates. He has stated, The name penalty rates suggest businesses must pay a penalty for imposing conditions which disadvantage employees. However, penalty rates have their origins in the early 1900s in a labour market quite different to that of much of the Australian labour market today.

A similar point was made in an editorial published in The Age on February 23, 2017. The editorial observes that one of the historic objectives of penalty rates was to make it unattractive for employers to require their workers to work on Sundays. This was a reflection of the social value then attached to Sundays as a day of religious observance and an opportunity for families to be together. The editorial notes of penalty rates, They were supposed to deter employment and trading on Sundays.

It has been claimed that cultural changes in modern Australia make penalty rates an anachronism. Critics of penalty rates claim that such a disincentive is now beside the point as social and commercial practices have changed so much that a deterrent is superfluous. Church attendance has declined, sporting activities occur on days other than the weekend and commercial and retail activities occur throughout the week, including over the weekend.

The Age editorial argues, In response to community demand, Australia has long had a seven-day commercial week. Saturday is our biggest shopping day, and retail trading on a Sunday outstrips some weekdays.

Professor Lewis went on to explain why he believes that employees no longer need to be compensated for working on Sundays. He stated, 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. For most people, working on weekends would not significantly impose on their time spent on sport and outdoor activities.

It has been claimed that for many people, students and mothers with partners who work away from home on Monday to Friday, for example, weekend work is actually an advantage. Professor Lewis stated, For many people working weekends allows them to earn income from paid employment while meeting commitments to unpaid activities such as study or household duties [on other days of the week].

The value of Sunday employment to students was noted in The Age editorial published on February 23, 2017. The editorial stated, Among those who stand to gain [from the increased Sunday employment resulting from a reduction in penalty rates] are the many young people who seek work in retailing and hospitality industries with flexible hours to fund their tertiary studies and other vocational training.

#### 4. Many workers will not be affected and the penalty rates have been lowered less than was requested

Many supporters of lowering penalty rates have argued that the objective is not to harm employees and that the changes have not and will not be implemented in a way that would maximise potential harm.

Former Coles executive and now chief executive of the Tasman Market Fresh Meats chain, Matt Swindells, has noted that most employers will be careful to retain good staff relations and motivate good staff by not ruthlessly applying the Sunday wage reductions.

Mr Swindells has stated, I don't think it's just as simple as taking a loading away, you've got to approach it in a more measured way. You've still got to remunerate and incentivise staff properly.

It has been noted that some employees wage rate will not be affected at all as they are employed under enterprise agreements where Sunday penalty rates have been traded for other benefits. These agreements have traded-off some penalty rates in exchange for other provisions such as higher base rates of pay.

The head of research for the global bank Citi, Craig Woolford, has noted, The impact on retailers is varied, some retailers have enterprise agreements with lower than award Sunday rates. Most of Australia's largest retail operations pay their staff through enterprise bargain agreements, including Woolworths, Just Group and Super Retail Group. For in the vicinity of 300,000 retail workers (around one third of the total) there has been no reduction in penalty rates at all.

Given that many workers have seen advantage in trading away penalty rates for increased base-rates of pay, employer groups have floated a number of other options including the possibility of introducing a flat loaded hourly rate instead of penalties. Critics of penalty rates argue that their being swapped by workers for other benefits demonstrates they are no longer seen as necessary or significant by many employees.

It has also been noted that Sunday penalty rates are still higher than Saturday rates, despite the fact that employers groups argued that the Sunday rate be lowered to the same level as the Saturday.

Fair Work Commission President Iain Ross has stated, The Commission understands that while working Sundays might not have the level of disutility that it once did for workers, Sunday work still does have an impact and this formed part of the Commissions decision not to pull Sunday rates completely in line with Saturdays in the retail and hospitality sectors. Mr Ross further noted, Except in fast food awards, we have not reduced the Sunday rates to the same rate as Saturday.

#### 5. Lowering penalty rates will benefit the total economy

It has been argued that reducing penalty rates will see an increase in the supply of a range of consumer and hospitality services via increased employment, resulting in increased production and increased consumption.

In an opinion piece published in The Australian Financial Review Professor Phil Lewis, Director of the Centre for Labour Market Research at the University of Canberra, stated, A fall in labour costs will make otherwise unprofitable activities profitable so firms hire more people and produce more goods and services.

Professor Lewis further suggested, There will be more employment and increased turnover from both existing firms trading on Sunday and by firms deciding to start trading on Sunday. Complementary industries, such as tourism, will benefit from customers having a greater range of choice and lower prices.

International Employment Relations Association is an organisation which represents and serves academics, practitioners, students and others interested in Employment Relations. In 2015 it posted the following comment supporting a reduction in Sunday penalty rates on the Internet site of the University of Western Australia, Not only will consumers benefit from longer trading hours and better quality customer service but hospitality and retail workers will benefit from increased employment opportunities. The implementation of this reform suggested by the Productivity Commission will stimulate growth in the Australian economy, while also addressing the issue of increased unemployment.

### **Arguments against reducing Sunday penalty rates**

#### 1. The workers affected are already lowly paid

It has been argued that these cuts are inappropriate because they are being inflicted on workers who are already working for a low rate of remuneration.

Australian Council of Trade Unions president Ged Kearney, the president of the Australian Council of Trade Unions, has stated, This is a bad day for working Australians. Kennedy further claimed, struggling workers won't be able to survive on a 25 or 30 per cent pay cut. We are talking about people who do not earn a fortune.

Kennedy continued, More than a million workers will face a pay cut of more than 20 per cent, or \$6000 per year. Imagine what that means to someone when they have to pay car registration, they have to pay rent, when they are trying like crazy to get a mortgage.

Luke Hilakari, the secretary of the Victorian Trades Hall Council secretary has warned the decision would push working families into severe hardship. Hilakari has stated, There will be thousands and thousands of families sitting around the dinner table tonight, working out how to make ends meet. Are they going to have to take a second job, or a third job? Are they going to have to do extra shifts?

This is going to be the greatest cut to working people's wages since the Great Depression.

A similar point has been made by Adam Bandt, the Greens workplace relations spokesperson, who has stated, This is a body blow to the hundreds of thousands of people who depend on penalty rates to make ends meet.

Critics have stressed that these cuts are being imposed on an already vulnerable group. Dr Stephen Clibborn from the University of Sydney business school has noted that the underpayment of wages and penalty rates is already prevalent in the retail and hospitality industries.

It has been noted that a reduction in penalty rates will most adversely affect young workers who are already a significantly disadvantaged group.

The Life Patterns study conducted by the University of Melbourne's Youth Research Centre has found that work-life balance and cost of living pressures are already creating a stressful transition to adulthood for young Australians.

Shirley Jackson, PhD candidate in Political Economy at the University of Melbourne has noted, We [Australia] occupy an unusual position in the global economy as one of only a handful of countries to have lower legal minimum wages for young people Unfortunately for Australia's young workers, our country has the lowest youth wage compared to minimum wage, in the world. Critics of the reduction to Sunday penalty rates note that this will simply worsen the financial disadvantage suffered by young workers.

It has also been noted that a reduction in penalty rates would disproportionately affect women. The Labor opposition in its submission to the Fair Work Commission noted that with women representing more than half the workforce in retail and hospitality any measures which reduce the take home pay of workers in these sectors can only widen the gender pay gap across the Australian community.

## 2. Reducing penalty rates will primarily increase profits and not result in increased employment

Opponents of a reduction in penalty rates have claimed that the primary motivation of employer groups seeking a cutback in penalty rates is to increase profits.

Citigroup late last year conducted financial analysis which found big retailers including Myer and JB Hi-Fi were likely to deliver any savings from penalty rate cuts to shareholders.

Victorian Trades Hall Council's secretary Mr Hilakari has stated, This money is just going to be pocketed.

It has also been noted that some of the supposed increase in employment that may appear to occur will not be real in that it will simply be the same employees working longer hours in order to earn what they had been before their penalty rate was cut. There may be some increase in service; however, there will not be a genuine increase in employment.

Working longer hours for the same pay does not represent a genuine increase in employment.

Australian Council of Trade Unions president Ged Kearney said the idea that cutting penalty rates would create jobs is a complete furphy. Kearney stated, People whose pay is going to be cut will simply have to work more hours to make up that take-home pay.

As Fatima Measham noted in an opinion piece published in Eureka Street on March 1, 2017, In its own report, the Fair Work Commission points out that employment effects are overstated, citing studies and submissions that do not support the conceptual model that lower wage costs lead to lower prices, lifting consumer and labour demand.

Other critics note that the belief that lower penalty rates would lead to the creation of more jobs ignores the value of demand.

According to this argument, even if some employers were to put on more staff at the lower rates that does not mean that these jobs would be sustainable. Sustainable job creation relies on there being customers to purchase the good or service. Many critics argue that there is not sufficient surplus demand capacity in the Australian retail or hospitality market to make it likely that more enduring jobs would be created.

The Sydney Morning Herald's economics editor, Ross Gittins, has stated, I don't believe there is much scope for us to be consuming a lot more than we are already certainly not over the medium term.

## 3. Sunday employment still restricts workers social opportunities

It has been claimed that Sunday work still impacts on the social, recreational and family time of workers. It has further been claimed that these restrictions are particularly acute for those with families who are denied the opportunity to spend significant time with their children outside school hours.

Evidence shows weekend work is significantly associated with work-family conflict for fathers. Data from a major national survey showed that working Sundays in particular is linked to higher work-life interference.

In the Australian Work and Life Index 2012 it was noted that For around one quarter of all workers, work often or almost

always interferes with activities outside work and time with family and friends. A further 29 percent of workers say that work sometimes interferes with these other life domains. A substantial proportion of workers - around 18 per cent - also report that work frequently interferes with their community connections.

Supporters of Sunday penalty rates argue that Sunday is still substantially a day set aside by most in the community for non-work-related activities and that those whose employment require them to work on Sunday should receive a significant financial compensation.

Critics have argued that a decline in church attendance over the last five decades does not mean that Sundays are no longer valued by Australians.

In an opinion piece published in The Guardian on February 26, 2017, Greg Jericho stated, You dont need to be a regular church goer to know that Sunday is different from Saturday just look at the Sunday papers; the television programming; the scheduling of football games. Ask yourself when you would most expect to have your kids playing junior sport Saturday morning or Sunday? Ask yourself when you would be more likely to have a sleep in or a special family lunch. Anyone think Mothers Day should be shifted to a Saturday?

#### 4. The hospitality industry and many other small businesses are experiencing rapid growth and do not require cost reductions

It has been claimed that the reduction in wages that will result from the cut to Sunday penalty rates is unnecessary as the private sector is experiencing a period of growth. It has further been argued that the wage reduction will exacerbate an imbalance between profits and wages, further disadvantaging those who sell their labour.

Ray Markey, Professorial Fellow and former Director of the Centre for Workforce Futures, Macquarie University, has stated, The current decision [by the FWC to reduce Sunday penalty rates] has occurred in a relatively buoyant economy at a time when a shift is already occurring from wages to profits. The day before the commissions decision, the Australian Bureau of Statistics (ABS) released figures showing that private sector wages growth was 1.8%, the lowest since it began collecting data in 1997. At the same time, company profits soared by 26.2% for 2016.

It has further been claimed that many Australian small businesses, especially in the hospitality area, are doing very well and do not require the cost cut that a reduction in Sunday penalty rates would provide.

Professor Markey has noted, In the retail sector, gross operating profits for unincorporated businesses mainly the small businesses the decision was designed to benefit - grew by 11.5% for the December quarter alone. Most of the businesses affected will also enjoy a tax reduction if the government has its way.

Australias leading independent eftpos provider, Tyro, has similarly stated, In December alone, Australias 62,000 small and medium sized hospitality businesses, employing up to 200 staff each, saw sales increase a staggering 10 per cent to \$8 billion.

Growth is also being experienced by small and medium sized retailers. Tyro has further stated, In December alone, small and medium sized retailers processed about \$23.5 billion in sales, a 3% increase on the same period the previous year.

#### 5. Reducing penalty rates will harm the economy

It has been suggested that reducing penalty rates will have a deleterious effect on the Australian economy, reducing income tax revenue and increasing the benefits the federal government will be called on to pay the underemployed.

Richard Denniss, chief economist at the Australia Institute think tank, has estimated that cuts to Sunday penalty rates for low-paid workers could strip \$650 million from the federal government's budget.

Dr Denniss figures suggest that if 285,000 people lost an average of \$2744 a year and were all in the 21 per cent tax bracket, the reduction in income tax revenue would be \$164.2 million a year or \$656.8 million over the next four years. Further, he has suggested, if 460,000 people lost an average of \$2744 a year and half were in the 21 per cent tax bracket and half were in the 34.5 per cent tax bracket, then the reduction in income tax would be \$350.2 million a year \$1.4 billion over the forward estimates.

Dr Denniss has also suggested that cutting the wages of low-paid workers would lead to a significant increase in welfare spending. He finds that if 20 per cent of those affected by the penalty rate cuts were in receipt of welfare payments then the increase in welfare spending would be between \$78.2 million and \$126.2 million a year.

State government payroll tax revenue could also decline, as could GST revenue from declining consumer spending.

In its submission to the Fair Work Commission, the Labor opposition also claimed that a reduction in penalty rates would harm the economy. The submission stated, There is clear and well-founded evidence that reducing the take-home pay of low paid Australian workers will have a negative impact on domestic consumption. At the same time, it is highly unlikely that the benefits claimed by individual businesses will be seen across the aggregate economy.

The Labor submission further argued, Penalty rates support demand in an economy in transition and are consistent with helping to deliver better productivity performance and increasing competitiveness of the national economy. It pointed out that it was important to avoid taking any action that might reduce demand in an economy that is already under strain. It stated that real national disposable income per capita has fallen by 3.2% since September 2013, and wages growth is the slowest since the 1990s.

The submission concluded, Reducing the take-home wages of low-paid Australians runs completely counter to the objective of supporting demand in an environment where domestic consumption has taken on a more central role in underpinning growth.

#### Further implications

By definition, two speed economies are economies whose industries experience unevenly distributed rates of growth.

There is a subtle variation of this occurring within Australian service industries. A dramatic increase in wage inequality is occurring between those working in different sectors of the Australian economy, in part prompted by a growing reluctance in many service industries to pass a share of increasing profits on to employees via wage increases. Australias retail and hospitality sector is experiencing a period of relative growth. This is especially true in the small to medium sized business sector, a category of enterprise about to be given a further fillip by the tax reductions just allowed it by the Turnbull government.

Workers in Australias retail and hospitality sector are, however, among the lowest paid in the country.

As Paul Cleary noted in a comment published in The Australian on August 20, 2016, Profound structural changes in the Australian labour force have ushered in a new class of low-wage work.

In the creation of this class of work, Cleary has further noted, Employers use a myriad of means to reduce labour costs. Whether it is hiring more juniors, casuals, part-timers, trainees or migrants on short-term visas, the drive to remain competitive through cheaper and more flexible labour hire can be seen throughout the economy. Industries that rely on low-skilled jobs, such as retail and hospitality, are prime examples of this trend.

A July 2016 survey of economic trends showed a 0.1 point drop in the unemployment rate to 5.7 per cent largely because of a surge in part-time employment at the expense of full-time jobs. In this survey, 32 per cent of all workers were employed part-time, or almost one in three.

This trend toward a casualisation of the Australian labour market is occurring at the same time as there has been a dramatic slowing of wages growth for those in this type of employment. Wages growth in the retail sector was 0.1% in the June 2016 quarter. The retail sector is Australias largest employer with 1.2 million workers and has the lowest rate of wages growth.

The persistent push to lower pay rates has seen employers in large retail and fast food outlets already swap increased base pay rates for the removal of weekend penalty rates. No such enterprise bargaining agreement is meant to result in employees being paid below the award rate, however, a number of these arrangements have been challenged for violating this rule. A pay deal between Coles and the retail union was vetoed this year by the fair Work Commission because some employees faced sharp cuts in earnings.

In August 2016, Fairfax media revealed that the union representing hundreds of thousands of retail and fast food workers, the Shop, Distributive and Allied Employees Association (SDA), had cut deals with some of the countrys biggest retail and fast-food chains that left more than 250,000 workers being paid below their award rate.

There is a fundamental contradiction at the heart of one of the arguments posed in favour of reducing penalty rates. The claim is that Australia now has a 24/7 economy in which the supposed importance of Sunday as a day of rest has disappeared. According to this argument, Australians now expect to shop and dine whenever they wish, including on a Sunday. However, this argument is predicated on there being two classes of Australian worker those for whom Sundays remain a day of rest (at least to the extent that they do not have to go to work) and those for whom it is not a rest day because they are employed serving those who are shopping and eating away from home on this day.

It is also the case, as the above discussion indicates, that those who work in retail and hospitality (including working on Sundays) are earning among the lowest wages of any Australian workers, almost certainly lower than many of those who work from Monday to Friday and who then shop and recreate over the weekend. The average worker in accommodation and food services earns \$524 a week and those in the retail trade earn just \$687 compared with \$1,163 for all Australian workers.

These two classes of worker, the lowly paid retail and hospitality worker, and those they serve, would be of less concern if the people working in the lower paid jobs were only passing through or supplementing their income. Thus, students might be expected to accept low wages for a time because once educated and trained they will enter better paid occupations. However, this is not the case.


Australia now has entrenched under-employment. Among those in casual or part-time work, earning low wages, are many (including some with tertiary training) who want full-time employment and cannot find it. The number of people who are underemployed has increased from about 176,000 in the late 1970s to 1.1 million, according to Australian Bureau of Statistics (ABS) figures released in March 2017.


Professor John Buchanan, Chair of the Discipline of Business Analytics at the University of Sydney Business School, has stated, Under-employment is not just cyclical, it is structural, which means employers are building jobs which are dependent on part-time work and often people can't get enough hours. The implication of this is that there are many Australians who are permanently trapped in part-time or casual employment and even when working more than one job may never be able to earn enough to live comfortably.

In this context, the reduction of Sunday penalty rates is important as it may push many workers into more extreme poverty. It is concerning that Australia is developing a class of working poor as exists in the United States. The reduction of Sunday penalty rates is a further step in that direction.

Newspaper items used in the compilation of this issue outline

**Industrial relations, incl trade unions, workplace changes and weekend penalty rates for workers / employees, enterprise bargaining / agreements:.**

AGE, September 18, 2016, page 27, comment (on the Shop, Distributive and Allied Employees Association - ref to Coles and other "deals") by Duncan Hart, 'A shameful swindle of workers by their own union'. 

**The Huffington Post, February 23, 2017**, news item by Josh Butler, *Penalty Rates For Sundays, Public Holidays To Be Slashed* 



**The Huffington Post, February 23, 2017**, background by Josh Butler, *'I Have To Get A Second Job Or Become Homeless': Workers React To Penalty Rate Cuts* [↗](#)

**ABC News**, background / informative, *Penalty rates: Why the decision flags the start of a new political fight* [↗](#) - see also **ABC News**, background / 'explainer' by Jessica Haynes, *Penalty rate change: The arguments for and against* [↗](#)

**The Australian, February 21, 2017**, news item by Shanahan and Hannan, *Award wage deals will be more flexible* [↗](#)

**The Australian Financial Review, February 23, 2017**, news item by David Marin-Guzman, *Fair Work Commission slashes Sunday penalty rates, public holiday rates* [↗](#) - see also **Australian Fair Work Commission**, details of decision on case, *AM2014/305 Penalty rates case* [↗](#)

**The Huffington Post, February 23, 2017**, comment by Chris Bowen, *Why Penalty Rates Should Be Everyone's Cup Of Tea* [↗](#)

**The Guardian, February 23, 2017**, comment by Katharine Murphy, *Cut to penalty rates will galvanise the left and send a shiver through Coalition* [↗](#)

**The Guardian, February 23, 2017**, comment by Greg Jericho, *With record low wages growth, workers don't need anymore 'flexibility'* [↗](#)

**The Huffington Post, February 24, 2017**, comment by Joe Frost, *Let's All Calm Down And Have A Rational Chat About Penalty Rates* [↗](#)

**The New Daily, February 27, 2017**, comment by Emily Stokes, *?Give us penalty rates or take a pay cut?* [↗](#)

**ABC News, February 28, 2017**, news item by Tom Iggulden, *Sunday penalty rates: Unions and employer groups ready to wage media war* [↗](#) - see also **ABC News**, background by Jessica Haynes, *Penalty rate change: The arguments for and against* [↗](#)

**News.com.au, March 2, 2017**, comment by Malcolm Farr, *Pollies squirm over slashed penalty rates* [↗](#) - see also **The Conversation**, analysis by Ray Markey, *Explainer: where to from here on penalty rates?* [↗](#)

**The Guardian, March 3, 2017**, comment by Katharine Murphy, *Just as it gathers steam on coal, the Coalition is derailed by penalty rates* [↗](#)