*__Briefing Note:__*

# Update on Penalty Rates and Job-Creation: Two Years Later

**By Dr. Jim Stanford**

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July 1 marks the implementation of the next stage of reduced penalty rates for Sunday work in the retail and hospitality industries in Australia. This represents the third reduction in Sunday penalty rates since the Fair Work Commission decided in February 2017 to reduce penalty rates for workers under the retail trade, pharmacies, fast food, restaurants, and hospitality Modern Awards. The FWC also ordered reductions in penalty rates for public holidays; those were fully implemented in one step on 1 July 2017. Reductions in Sunday penalties were phased in over 3 or 4 years. The full list of penalty rate reductions, and the timetable for reductions, is summarised in Table 1.

**Table 1**
**Summary of Reductions in Retail and Hospitality Penalty Rates**

| Award | Status | Sunday Penalty Reduction | | Holiday Penalty Reduction[1] (1 July 2017) |
|---|---|---|---|---|
| | | 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.

In previous work we have estimated the aggregate wage impacts of the penalty rate reductions.[1] Based on analysis of unpublished ABS data, we estimate that some 580,000 retail and hospitality workers are employed on a typical Sunday, and hence affected by the penalty rate reductions – both directly and indirectly.[2] It is important to note that this is the number of workers affected, on average, on any given Sunday (based on quarterly ABS survey results over a 12-month period). But the *total* number of retail and hospitality workers affected at *some point* during the year is larger than this: since many affected workers work some Sundays during the year, but not necessarily the particular Sunday surveyed by the ABS. On the basis of conservative assumptions regarding base wages and number of workers in each category of employment (permanent versus casual), we estimated that the penalty rate reductions, once fully implemented (after 1 July 2020), will reduce total wage income in the two sectors by over $1.2 billion per year. In the 2018-19 financial year (just completed), they reduced total wage income in the two sectors by about $630 million.

The penalty rate cuts were motivated, in theory, by employer arguments that lower labour costs for Sunday and holiday work would "allow" employers to provide more work opportunities for retail and hospitality workers: both through longer hours of work and through more total employment. The Fair Work Commission cited this likely benefit in announcing the reductions. However, job-creation results in both sectors since the penalty rate reductions began have been very disappointing.

This briefing note reviews the most recent ABS data regarding employment at the industry level, to search for any correlation between the job-creation performance of various economic sectors and changes in penalty rates for Sunday and holiday work. Detailed quarterly labour force data published by the ABS (Catalogue 6291.0.55.003) provides an industry breakdown of employment trends. The most recent data covers the May quarter of 2019. By comparing employment in that quarter to employment two years earlier (the last quarter before the start of the penalty rate reductions), we can determine whether job-creation in the sectors affected by the FWC's decisions has been strengthened – either relative to past job-creation, or to the performance of other economic sectors.

Table 2 reports aggregate job-creation in the broader retail and hospitality sectors over the past two years. In total, from May 2017 through May 2019, the retail sector added just under 24,000 new jobs. More than 100% of those jobs were part-time; the retail sector actually shed about 26,000 full-time positions in the same period, but that loss

[1] Stanford (2019).

[2] Even workers who are not employed directly under the conditions of the relevant Modern Awards will experience lower wages for Sunday and holiday work over time, due to parallel evolution of Sunday and holiday pay in enterprise agreements (some of which are explicitly linked to Award provisions) and individual contracts (which are underpinned by Award provisions by virtue of better-off-overall provisions of the Fair Work Act).

was more than offset by a larger increase in part-time work.[3] Given the large size of the retail sector (it employs 1.3 million workers in total, making it Australia's second-largest employer), 24,000 new jobs represents a very slow rate of job-creation. Total employment in retail grew just 1.87% over the 2-year period (for an average annual job-creation rate of around 0.9%). That ranks 15th out of the 19 sectors included in the ABS sectoral employment survey.

**Table 2**
**Job-Creation Under Lower Penalty Rates**
**(2 Years to May 2019)**

| | **New Jobs (000)** | **Cumulative Change in Employment (and rank)** |
|---|---|---|
| **Retail Trade** | 23.9 | 1.87% (15/19) |
| **Hospitality (Accommodation and Food Service)** | 30.4 | 3.43% (12/19) |
| **Sub-Total: Sectors With Lower Penalty Rates** | 54.3 | 2.51% |
| **Sectors With No Change Penalty Rates** | 624.9 | 5.81% |

Source: Author's calculations from ABS Catalogue 6291.0.55.003, Table 4. Seasonally adjusted data.

The broad hospitality sector (including both accommodation and food and beverage services) performed better than retail in creating new jobs since the penalty rate reductions began, but it still ranks well below national job-creation performance. The hospitality sector created just over 30,000 jobs in the last two years. Once again, over 100% of those jobs were part-time: in the same period hospitality shed about 14,000 full-time jobs, more than offset by an increase in part-time positions. Total employment in the sector grew 3.43% from May 2017 through May 2019 (for an average annual rate of 1.7%). That ranks sector 12th out of the ABS's 19 sectors. Hospitality job-creation was far slower than the 5.6% increase in employment experienced in Australia's labour market as a whole during this period.

Surprisingly, in both retail and hospitality the average annual rate of job-creation *slowed down* significantly after the cuts in penalty rates began to be phased in. In the two years prior to lower penalty rates, total retail employment grew at an annual average rate of 2.2% per year. That is more than twice as fast as the 0.9% annual average growth in employment demonstrated since May 2017. Similarly, from May 2015 through May 2017, total employment in the broader hospitality sector grew at an

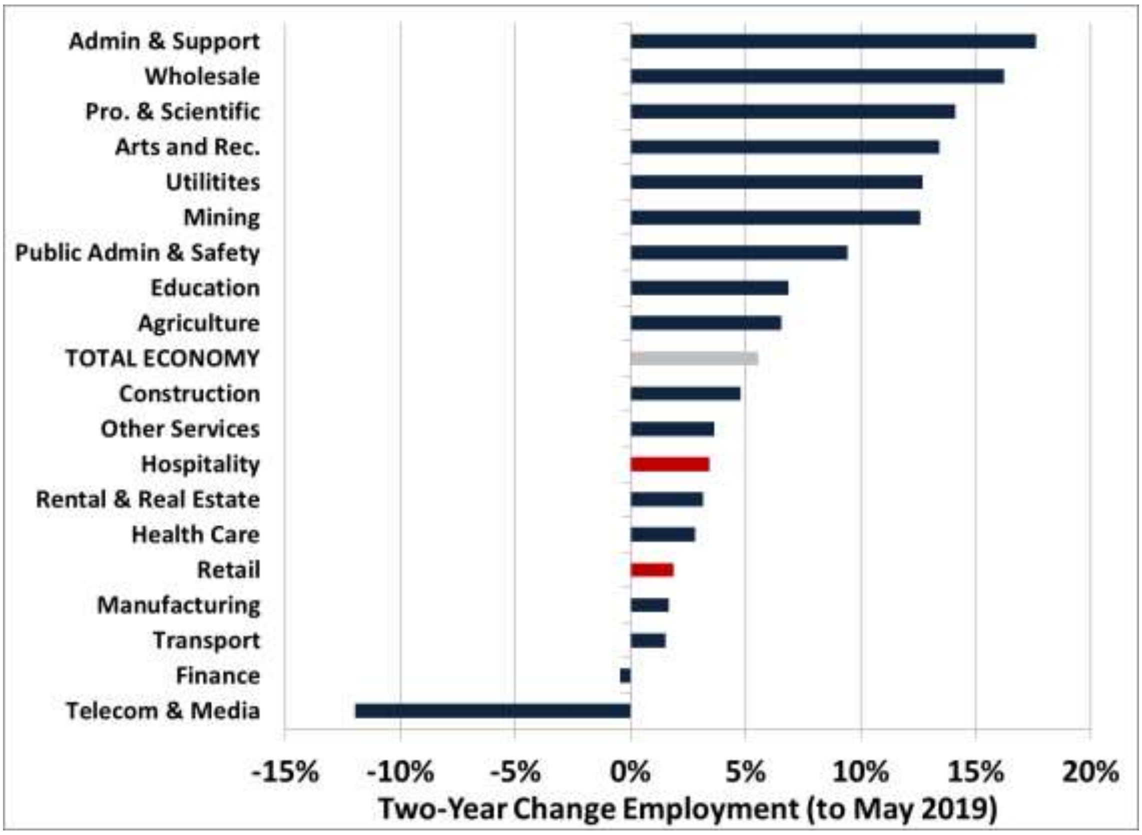
[3] The split between full-time and part-time work by sector is reported in ABS Catalogue 6291.0.55.003, Table 6. That split is calculated only for original (unadjusted) data, whereas the employment results in Table 2 use more reliable seasonally adjusted data.

average annual rate of 3.5%. Once again, that is more than twice as fast as the 1.7% average annual growth rate of hospitality employment in the two years since penalty rate reductions began. In both cases, job-creation slowed down by more than half once penalty rates began to be cut.

In contrast, total employment growth in Australia has *accelerated* since May 2017: average annual employment growth for the whole labour market in the last two years was 2.7%, compared to 2.0% per year in the two years before the penalty rate reductions began. So the slowdown in job-creation in retail and hospitality under lower penalty rates cannot be ascribed to weakness in overall macroeconomic conditions. To the contrary, while job-creation in the rest of the economy was speeding up, job-creation in the two sectors benefiting from lower penalty rates was slowing down.

Therefore, both compared to other industries, and compared to previous periods of time, job-creation in retail and hospitality under lower penalty rates has deteriorated, not improved. Figure 1 illustrates the relatively poor standing of both sectors according to job-creation during this two-year period. A few industries have done worse than these two sectors in the last two years: including the hard-hit telecommunications and media industry, the finance sector (with major banks recently reducing staff), and manufacturing. However, the retail and hospitality sectors are among the worst-performing industries in Australia since the penalty rate reductions began.

**Figure 1: Sectoral Job-Creation Rankings, 2 Years to May 2019**




Source: Author's calculations from ABS Catalogue 6291.0.55.003, Table 4.

Even some business leaders have acknowledged the failure of lower penalty rates to stimulate job-creation – with one major small business leader even asserting the whole policy exercise has "just been a waste of time."[4] The lessons from this disappointing experience should be clear. There are many factors that affect employment decisions by firms, other than labour costs: including macroeconomic conditions, consumer demand, and industry-specific factors. The conventional belief that simply cheapening labour, and further exposing workers to lower and insecure wages, will somehow elicit more job opportunities is not validated by empirical reality.

***References***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[4] Cited in Hannan (2019). See also O'Brien (2019) and Bagshaw (2017) for more evidence on the failure of lower penalty rates to stimulate employment.