

**Submission by  
Master Grocers Australia  
(MGA Independent Retailers)**

**to the**

**The Ministerial Review  
of the Western Australian State  
Industrial Relations System**

**November 2017**

**The Ministerial Review of the Western Australian State industrial relations system.**

The Western Australian Government is conducting a review of key aspects of the State Industrial Relations System, which has not been updated since 2002. It is noted that the Government does not intend to refer any industrial relations powers to the Commonwealth and therefore the review will be conducted on that basis. In the private sector there are a number of small businesses that may be affected by any proposed industrial relations changes, if they are a sole trader, a partnership or in some cases, a trust. There are also intended industrial relations consequences for the public sector.

The terms of reference include making a more streamlined and efficient industrial relations structure, including reviewing the definition of “employee” and whether the minimum conditions of employment should be updated. It is intended that the industry awards will be modernised and become easier to follow and they will be updated regularly. The Review will also ensure that employees receive their correct entitlements by providing compliance tools to inspectors to ensure any avoidance of employer obligations.

Master Grocers Australia (MGA Independent Retailers) welcomes the proposed review and thanks the Western Australian Government for the opportunity to briefly respond to the proposed review.

**About Master Grocers Australia (MGA Independent Retailers)**

MGA is a National Employer Industry Association representing independent supermarket and liquor store owners in all States and Territories. These businesses range in size from small, to medium and large, and make a significant contribution to the retail industry, employing 115,000 people and accounting for approximately \$14.5 billion in retail sales.

MGA is a registered organisation with the Fair Work Commission and is the member organisation for all independent supermarket store owners in Western Australia. In Western Australia, MGA’s members trade under a variety of different brand names including; Farmer Jacks, FoodWorks, Supa IGA, IGA, IGA Xpress, Eziway, Cellarbrations, The Bottle O and Mitre 10 Hardware. We currently have 491 Western Australian members, who employ over 20,000 staff with a sales turnover of \$2.8b per annum. The independent grocery sector makes a significant contribution to the Western Australian economy and the communities in which they trade. Whilst a large number of our members are parties to the National system of industrial relations a number of them, particularly very small businesses are part of the WA Industrial Relations system.

**Introduction**

MGA supports the proposal to review the WA award system which will be a major part of the modernisation of the WA Industrial relations system. A number of MGA Western Australian members rely on the State industrial awards that determine the wages and conditions of their employees. In the retail and liquor industries in particular, retailers

either make use of the Shop and Warehouse (Wholesale and Retail Establishments) State Award 1997 or the Licensed Establishments (Retail and Wholesale) Award 1979.( the awards). It is our intention to briefly address the complexities of the awards and the urgent need for their modernization. As the Government progresses to conduct the overhaul of the award system MGA would welcome the opportunity to contribute to the award modernisation process.

It is important that there are modern mechanisms to ensure that there is total compliance with the industrial relations system so as to protect the interest of all parties who participate in the system. The need to ensure compliance is important and a greater understanding of the awards and other workplace obligations need to be constantly reinforced to employers. If there is greater clarity for employers in how to operate with modern awards and information on employment obligations then compliance becomes much easier and assured.

MGA supports the establishment of statutory compliance and enforcement mechanisms that are proposed by the Ministerial Review because this will stress the importance of ensuring that correct entitlements are provided to employees.

All State awards are subject to the annual wage review which is conducted by the Industrial Relations Commission and MGA submits that is the appropriate body to determine the remuneration of employees.

### **The Updating of State Awards for the private sector employees.**

The modernisation of the WA Award System is in the opinion of MGA a vital part of this review and MGA welcomes this opportunity to make comment on this area of proposed change.

In 2006 when the Commonwealth *Workplace Relations Amendment (Work Choices) Act 2005* commenced it changed the operation of the State Awards of the Western Australian Industrial Relations Commission.

This Commonwealth coverage of the former State awards was continued with the *Fair Work Act 2009* (Cth) and the system of modern awards.

In 2010 the Federal Industrial Relations Commission commenced the modernisation process of the various former state awards that existed after many States referred their industrial relations to the federal industrial relations system, with the exception of Western Australia. The result was that there were a number of awards from each of the States that were all different. They had different rates and penalties and they had had become complicated due to various amendments over many years. The task facing the Fair Work Commission of modernizing the awards was extensive and even though the number of awards was reduced to 135, having been previously several thousand, the process has been arduous for the Fair Work Commission and the award modernization process has continued for a number of years.

It is anticipated that whilst the State Award modernisation process in WA may not be as complex as the Federal process, due to a lesser number of awards, nevertheless there will undoubtedly be a number of complications subject to the details of each of the awards. MGA members have a specific interest in the two awards already mentioned namely Shop and Warehouse (Wholesale and Retail Establishments) State Award 1997 or the Licensed Establishments (Retail and Wholesale) Award 1979, and we would welcome modernisation in a number of areas of these awards. MGA anticipates being able to participate in the process of modernisation.

The areas for modernisation in the Shop and Warehouse (Wholesale and Retail Establishments) State Award 1997 or the Licensed Establishments (Retail and Wholesale) Award 1979, would include the rationalisation of when the payment of penalties are payable without necessarily reducing the entitlements for employees, redrafting of the award in plain English, the removal of ambiguities, more succinct definitions of position descriptions, flexibility provisions and consultation provisions.

The responsibility for the modernisation of the awards would be best be provided by the WA Industrial Relations Commission (the Commission) as the Commission has been the regulator of the WA award system in the past and is therefore the organisation with the most experience and knowledge of the WA Industrial Relations system. The Commission would no doubt call on the parties with interests in specific awards for their contributions to the modernisation process.

Subject to the number of awards that require modernisation it would be useful to establish Industry Panels to review various awards, according to industry as it is likely that the award modernisation process will be a lengthy and tedious one.

It would be beneficial to MGA members if the Commission was prepared to consider the amalgamation of awards where there are several awards covering one area of industry. The Shop and Warehouse (Wholesale and Retail Establishments) State Award 1997 or the Licensed Establishments (Retail and Wholesale) Award 1979 are two awards where there may be an opportunity to simplify the industrial relations system by using only one retail award for both aspects of the industry.

It is noted that minimum wage increases in the awards are conducted each year by the Commission. It is submitted that this is the appropriate body for the continued conduct of this important aspect of the wages system in Western Australia.

In respect of the unfair dismissal system in Western Australia, again the Commission is the appropriate organisation for the conduct of hearing in the event of an application. The period of 28 days in which to lodge an application could perhaps be considered as too long a period in which to lodge an application and it would seem that 21 days is a more realistic time frame.

## **Statutory compliance and enforcement mechanisms**

There are opportunities currently for employment complaints regarding the operation of the WA industrial relations system, but they do not equate to those that exist in the federal system.

However, as the number of employees increase and therefore the queries regarding employee rights and employer obligations increase there may be a greater requirement for a more extensive compliance mechanism in Western Australia. The federal system has a body dedicated to providing support and advice to millions of workers and whilst the demand would not be as great as its federal counterpart there could be an opportunity to supply a similar service to both employers and employees in Western Australia.

Complaints about underpayment of wages and award interpretation etc in Western Australia are usually referred to the Department of Mines, Energy and Industry or directly to the WA Industrial Relations Commission. If there is a complaint of bullying, then it may be referred to the Department of Commerce or referred to Worksafe. There is no organisation, similar to the Federal Fair Work Ombudsman, that provides a “one stop shop” for employee or employer assistance in WA. It would be useful to have a similar facility in WA.

The arrangements for inspectors’ tools and powers of enforcement are also required to be more regulated in order to ensure that staff are being paid the correct wages.

Although as previously mentioned there is a mechanism for employees to complain to government departments regarding wages issues, actually auditing work sites is far more effective method to ensure compliance.

## **Review of the minimum conditions of Employment.**

The Minimum Conditions for employment in WA, currently provide employees with a high standard of workplace certainty and entitlement. However, a review of these terms may provide an opportunity to review additional entitlements that enable both employers and employees to increase productivity and employment opportunities.

## **Conclusion**

MGA welcomes the Government initiative to review the WA industrial Relations system and in particular regards the modernisation of the industrial awards as a particularly important aspect of the review. Additionally, ensuring that compliance support is provided for both employers and employees to ensure all parties are fully aware of their obligations would be beneficial.

MGA thanks the WA Government for the opportunity to make this submission to the Review Panel.

Jos de Bruin

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