



Restaurant
& Catering

Review of Western Australia Industrial Relations System

R&CA Submission

November 2017

RESTAURANT & CATERING AUSTRALIA

Restaurant & Catering Australia (R&CA) is the national industry association representing the interests of over 40,000 restaurants, cafes and catering businesses across Australia. R&CA delivers tangible outcomes to small businesses within the hospitality industry by influencing the policy decisions and regulations that impact the sector's operating environment.

R&CA is committed to ensuring the industry is recognised as one of excellence, professionalism, profitability and sustainability. This includes advocating the broader social and economic contribution of the sector to industry and government stakeholders, as well as highlighting the value of the restaurant experience to the public.



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INTRODUCTION

R&CA welcomes the opportunity to provide a submission to the Western Australian (WA) Government's Review of the State industrial relations system. R&CA commends the WA Government for undertaking this comprehensive Review, representing the first of its kind in 15 years. As the WA Government has acknowledged, the overarching industrial relations environment has changed significantly over this period, necessitating updates to the status quo. R&CA notes that the hospitality industry, including cafés, restaurants and catering businesses, is no exception to this trend.

R&CA strongly supports the WA Government's overall objective of this Review to provide an industrial relations system which is 'contemporary, fair and accessible'.¹ R&CA believes that the existing system can be modified to achieve this objective in a way which balances both the interests of employees and employers. In R&CA's view, achieving such a balance should be a central tenet in determining the outcomes arising from this Review process.

Specifically, R&CA argues that the inherent complexities of the WA industrial relations system serve to detract from its accessibility and that the WA Government should implement reforms simplifying its overall structure and design. R&CA acknowledges its own educative function in providing members with simple and accessible information to inform them of their various workplace obligations under the State's industrial relations framework. To this end, R&CA is committed to ensuring that its members are fully informed as to any development's in the State's industrial relations system through its dedicated team of industrial relations advisers.

Whilst R&CA acknowledges that there is no intention on behalf of the WA Government to refer its powers to the Commonwealth, it is of the view that the Commonwealth indicators should at least be considered when making determinations to the State industrial relations system. R&CA argues that Commonwealth indicators such as minimum wage increases should not be exceeded in WA, with the overall cost of staff wages and on-costs accounting for 44 per cent of an average hospitality businesses' overall expenditure.² Furthermore, a large majority of hospitality businesses in WA are small businesses employing 19 people or less, meaning that they have the least capacity to absorb increases in operational costs.

¹ Government of Western Australia (2017) Media Release, *Review of State industrial relations system*, 22 September.

² Restaurant & Catering Australia (R&CA) *2017 Industry Benchmarking Report*.

POLICY SUMMARY

As part of this submission, R&CA argues that the WA Government should adopt the following measures as part of its Review of the State's Industrial Relations system.

1. Achieving an appropriate balance between the interests of employers and employees across a range of industry sectors should be a fundamental tenet governing this Review;
2. Any increase to the State's minimum wage should not exceed what is occurring at a Commonwealth level;
3. The use of plain English should be incorporated into the State's Industrial Relations system wherever possible to improve its accessibility;
4. The WA Government should not gazette any additional state-specific public holidays;
5. Stakeholder input and feedback be incorporated in the decisions made by the Western Australian Industrial Relations Commission to ensure that a balanced set of viewpoints are taken into account during the Awards Updating process.
6. In relation to the review of minimum conditions of employment under the relevant legislation, R&CA submits that these conditions should as much as practicable mirror the National Employment Standards, as set out in Part 2-2 of the *Fair Work Act 2009*. R&CA does not consider that allowing a periodical review of these conditions, without the need to change legislation is a necessary change. However, should a consensus be reached in favour of this proposal, R&CA would recommend that consideration be given to facilitate a consultation process with involvement from the industry sectors and key stakeholders.
7. In relation to the review of statutory compliance and enforcement mechanisms, industrial inspectors should be provided the opportunity to engage with employers to assist with their workplace compliance obligations. This may include adopting a mechanism which is similar to the mechanism used at the federal level, whereby the regulator enters into some form of arrangement, such as a memorandum of understanding with industrial associations, with the primary aim of achieving a satisfactory level of compliance within the relevant industries. The sharing of information and tools through this forum would then allow associations to better assist their members with complying with their workplace obligations.

OVERVIEW OF HOSPITALITY SECTOR IN WESTERN AUSTRALIA

TURNOVER

Businesses in Western Australia's hospitality sector, including cafés, restaurants, caterers and takeaway food businesses, generate billions of dollars a year for the state's economy. According to the most recently published Australian Bureau of Statistics (ABS) figures, the total turnover for the café, restaurant and catering sector for the year ending September 2017 was just under \$3.5 billion.³ When including turnover generated from takeaway sales as part of this figure, the total industry turnover in Western Australia over this period was \$5.5 billion.⁴ Based on the same figures, turnover generated in Western Australia's café, restaurant and catering sector experienced Year-on-Year (YoY) percentage growth of 5.6 per cent.⁵ This figures increases to 7.6 per cent when encompassing turnover generated from takeaway sales.⁶ A detailed breakdown of the industry turnover statistics for Western Australia, including a comparison to other Australian states and territories, is available in Figure 1 below.

Figure 1: Turnover in the Café, Restaurant & Catering Industry

Turnover in the Café, Restaurant & Catering Industry							
State	Sector	Month of September			Year Ending September		
		Sept 16 (\$M)	Sept 17 (\$M)	% Change MoM	Sept 16 (\$M)	Sept 17 (\$M)	% Change YoY
NSW	Café, Restaurant & Catering Services	692.3	723.1	4.4%	8247.1	8347.5	1.2%
	Café, Restaurant & Takeaway Services	1261.4	1288.8	2.2%	14370.4	15020.9	4.5%
VIC	Café, Restaurant & Catering Services	533.7	544.1	1.9%	6049.7	6451.6	6.6%
	Café, Restaurant & Takeaway Services	878.3	872.4	-0.7%	9814.1	10348.7	5.4%
QLD	Café, Restaurant & Catering Services	432.8	410.2	-5.2%	4941.0	4912.9	-0.6%
	Café, Restaurant & Takeaway Services	756.1	720.7	-4.7%	8663.9	8620.6	-0.5%
SA	Café, Restaurant & Catering Services	100.5	118.4	17.8%	1122.7	1297.6	15.6%
	Café, Restaurant & Takeaway Services	189.5	208.7	10.1%	2185.4	2378.8	8.8%
WA	Café, Restaurant & Catering Services	281.5	299.7	6.5%	3293.8	3478.1	5.6%
	Café, Restaurant & Takeaway Services	448.5	473.1	5.5%	5105.7	5495.0	7.6%
TAS	Café, Restaurant & Catering Services	24.8	25.4	2.4%	303.5	324.7	7.0%
	Café, Restaurant & Takeaway Services	51.9	56.0	7.9%	609.6	667.6	9.5%
NT	Café, Restaurant & Catering Services	21.0	20.5	-2.4%	228.0	244.7	7.3%
	Café, Restaurant & Takeaway Services	41.4	38.8	-6.3%	471.9	468.7	-0.7%
ACT	Café, Restaurant & Catering Services	43.9	44.3	0.9%	511.2	496.7	-2.8%
	Café, Restaurant & Takeaway Services	69.1	71.2	3.0%	783.6	791.8	1.0%
Total	Café, Restaurant & Catering Services	2130.4	2185.7	2.6%	24696.7	25553.7	3.5%
	Café, Restaurant & Takeaway Services	3696.3	3729.7	0.9%	42004.3	43792.2	4.3%

Source: ABS 8501.0 Retail Trade, Australia; State by Industry Subgroup, Original.

³ Australian Bureau of Statistics, (ABS), (2017) Retail Trade Data 8501.0.

⁴ Ibid.

⁵ Ibid.

⁶ Ibid.

BUSINESS COUNT

As of June 2016, there were 3,807 cafés, restaurants and catering businesses in operation throughout Western Australia.⁷ Of these businesses, there are a total of 3,471 cafés and restaurants and 336 catering companies.⁸ Over the 2015-16 financial year, the number of Western Australian cafés and restaurants grew by a total of 4 per cent, with an additional 135 businesses in operation, whilst the number of catering businesses also grew by 1.5 per cent.⁹ The growth which occurred in Western Australia's café, restaurant and catering sector was broadly consistent with the growth recorded in other Australian states and territories. Significantly, 88 per cent of all Western Australia's cafés, restaurants and catering businesses are small businesses employing 19 people or less.¹⁰ A majority of Western Australia's cafés, restaurants and catering businesses fall into the 1-19 employees category, with 2,574 in total or 63.1 per cent of the state's entire industry.¹¹ The growth in Western Australia's hospitality industry in terms of business count, including the entry and exit rates, can be found in Figure 2 below.

Figure 2: Business Count Data Turnover 2015-16 Financial Year

Café, Restaurant and Catering Businesses operating at end of financial year - June 2016											
State	Business Type	Non Employ.	1-19 Employ.	20-199 Employ.	200+ Employ.	Change	% Change	Entry Rate %	Exit Rate %	Sub Total	Total No. Businesses
NSW	Café & Restaurants	2643	10216	778	17	677	5.2	24.2	19.0	13660	15,030
	Catering Services	474	798	83	9	42	3.2	20.9	17.8	1370	
VIC	Café & Restaurants	2308	8327	715	18	737	6.9	24.5	17.6	11366	12,308
	Catering Services	366	478	86	5	2	0.2	18.2	18.4	942	
QLD	Café & Restaurants	1311	5105	645	9	442	6.7	25.2	18.6	7068	7,676
	Catering Services	262	306	33	3	22	3.8	19.8	15.7	608	
SA	Café & Restaurants	393	1617	189	0	134	6.5	23.4	16.7	2196	2,429
	Catering Services	90	123	22	0	-2	-0.9	12.3	11.9	233	
WA	Café & Restaurants	633	2403	437	7	135	4.0	21.7	17.6	3471	3,807
	Catering Services	141	171	28	3	5	1.5	22.1	20.5	336	
TAS	Café & Restaurants	105	530	57	3	24	3.6	20.4	16.0	691	756
	Catering Services	25	40	3	0	-8	-11.0	19.2	19.2	65	
NT	Café & Restaurants	38	135	31	3	22	12.0	25.0	14.7	206	242
	Catering Services	12	18	3	0	1	2.9	17.1	14.3	36	
ACT	Café & Restaurants	143	578	84	4	20	2.5	21.2	19.0	811	870
	Catering Services	18	42	6	0	-3	-4.8	8.1	21.0	59	

Source: ABS 8165.0 Counts of Australian Businesses, including Entries and Exits, Jun 2012 to Jun 2016.

⁷ Australian Bureau of Statistics 8165.0 Counts of Australian Businesses, including Entries and Exits, Jun 2012 to Jun 2016.

⁸ Ibid.

⁹ Ibid.

¹⁰ Ibid.

¹¹ Ibid.

STAFF WAGES

For hospitality sector businesses, staffing and the associated on-costs are by far the largest overall expense incurred. According to R&CA's 2017 *Industry Benchmarking Report*, the average costs of employing staff (including wages and salaries, staff on-costs such as payroll tax and training) represented 44 per cent of a business' total expenditure. Figure 3 below contains a breakdown of categories containing the major expenses in operating a hospitality business.

Figure 3: Business Expense Chart for Hospitality Business

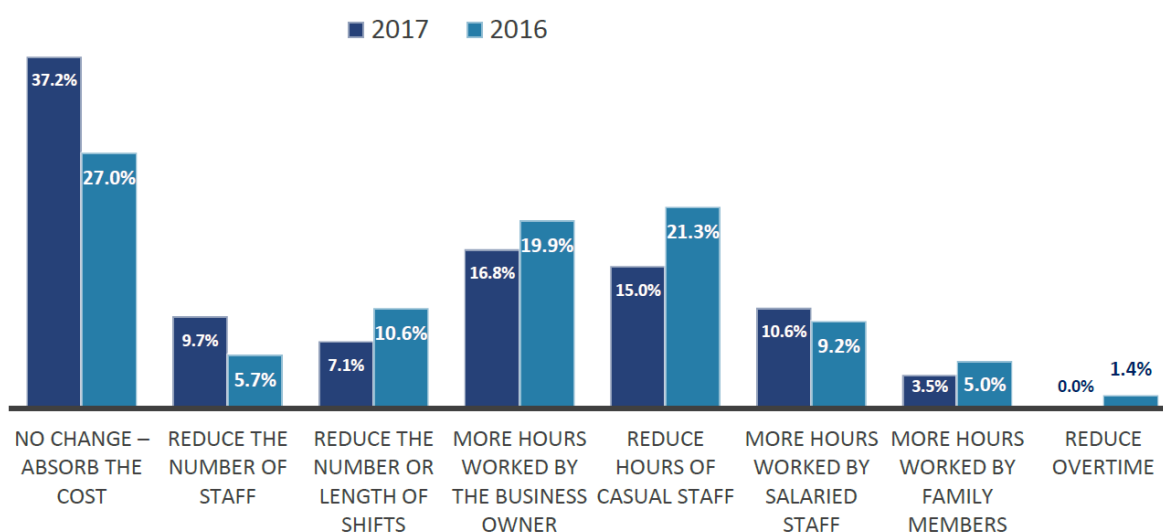
Expense Item	2015-16	2014-15	2013-14	2012-13
Food <i>(food cost to food sales)</i>	31.6%	31.2%	34.9%	29.3%
Beverage <i>(beverage cost to beverage sales)</i>	29.2%	29.3%	31.8%	30.7%
Rent	7.5%	8.3%	8.8%	9.9%
Rates and Taxes	4.8%	3.7%	4.7%	3.1%
Property Insurance	1.3%	0.8%	1.5%	1.5%
Electricity, lighting and gas	3.4%	3.2%	3.9%	3.3%
Wages and salaries <i>(including super)</i>	37.0%	37.9%	35.8%	39.3%
Staff on-costs <i>(payroll tax, workers compensation)</i>	5.3%	5.4%	4.9%	4.4%
Staff training	1.7%	0.9%	1.5%	1.6%
Equipment, depreciation / lease	3.6%	2.7%	3.2%	2.9%
Repairs, maintenance and replacement	2.9%	2.5%	3.3%	2.4%
Cleaning, laundry and rubbish removal	2.1%	2.0%	2.3%	1.5%
Insurance	2.1%	1.5%	1.7%	1.5%
Interest	1.8%	1.0%	2.0%	1.0%
Accounting and management	2.5%	2.5%	3.1%	1.8%
Advertising and promotion <i>(social media/website)</i>	2.7%	2.9%	3.0%	2.6%
Printing and stationary	1.5%	0.8%	1.3%	0.8%
Credit card charges	1.9%	1.3%	1.9%	1.1%
Telephone and postage	1.4%	0.8%	1.3%	1.0%
Travel <i>(including motor vehicle expenses)</i>	1.7%	1.0%	1.1%	1.1%

*Figure 1 sourced from R&CA 2017 *Industry Benchmarking Report*.

MINIMUM WAGE SETTING

Given that the average profit margin of a business in the café, restaurant and catering sector is 4.2 per cent¹², any increase to the costs involved in employing staff has a significant impact on these businesses' ability to operate sustainably and successfully. Significantly, the impact of any increase to the minimum wage forces café and restaurant owners to take measures such as reducing overall staff numbers, reducing the number or length of staff shifts, having the business owner work more hours or reducing the hours of casual staff. Hospitality business owners' various responses to the latest minimum wage increase at a Commonwealth level is demonstrated in Figure 4 below. Increases to the minimum wage are particularly problematic for hospitality businesses, as they are not in a position to simply increase prices due to fears of customer backlash and loss of patronage. For many operators, they are simply forced to absorb the increased operating costs as 37.2 per cent of businesses chose to do in 2017.

Figure 4: Hospitality Businesses' Response to Minimum Wage Increase



In light of this, R&CA argues that minimum wage increases in WA should not exceed those occurring at a Commonwealth level. R&CA notes that at a Commonwealth level, the latest increase to the minimum wage was 3.3 per cent.¹³ Whilst R&CA does not object to the Commonwealth measures being used as an indicator, hospitality businesses in WA should not be left at a disadvantage in comparison to those in other states and territories.

¹² Australian Bureau of Statistics (ABS) 2008, *8655.0 - Cafes, Restaurants and Catering Services, Australia, 2006-07*.

¹³ Fair Work Commission (2017) *Annual Wage Review 2016–17*.

PLAIN ENGLISH

To ensure ease of understanding amongst small business owners, R&CA strongly urges the WA Government to write the Awards in plain English and to avoid overuse of legal terminology in doing so. R&CA believes that a key element of the user-friendliness of the Awards is the ability to digest the content clearly without the need to seek further clarification which adds to the time costs for small business owners. R&CA also acknowledges its educative function as an industry association and its role in informing members of their various obligations under the State's Industrial Relations system. R&CA believes that a commitment from the WA Government's to incorporating plain English wherever possible as part of the State's Industrial Relations system will assist the association in its role informing members of their various obligations.

PUBLIC HOLIDAYS

Although public holidays have not been explicitly included in the Terms of Reference for this Review, R&CA nevertheless believes that the setting of public holidays is a direct issue of relevance for the State's Industrial Relations system. R&CA argues that no additional state-specific public holidays should be added on top of the 10 public holidays already present in WA. The issue of penalty rates applied to public holidays acts as a significant impediment to hospitality businesses being able to open on those days and to trade without incurring a loss. According to R&CA's *2017 Industry Benchmarking Report*, 20.2 per cent of businesses said that they opened on Sundays but not on Public Holidays due to the costs associated with penalty rates.¹⁴ R&CA argues that the proportion of businesses opting to close on public holidays will increase should the WA Government choose to gazette additional public holidays.

UPDATING OF AWARDS PROCESS

R&CA supports the functioning of the Western Australian Industrial Relations Commission in terms of its role in determining the Awards Review process. However, R&CA would also recommend that stakeholder input and feedback be incorporated in the various decision-making processes undertaken by the Commission wherever possible to ensure that a balanced set of viewpoints are taken into account.

¹⁴ Restaurant & Catering Australia (R&CA) *2017 Industry Benchmarking Report*.

CONCLUSION

R&CA appreciates the opportunity to provide a submission to the Western Australian Government's Review of the Industrial Relation system on behalf of the state's 3,807 cafés, restaurants and catering businesses. R&CA welcomes any measures undertaken by the WA Government to ensure an Industrial Relations system which is 'contemporary, fair and accessible'. R&CA believes that a fundamental aspect of this Review should be ensuring an appropriate balance between the interests of employers and employees. In order to achieve this objective, R&CA argues that a simplification of the structure and design of the State's industrial relations system is required to improve its accessibility. Such a measure would also assist R&CA in carrying out its educative function as an industry association in informing its WA members of their respective obligations under the States' industrial relations system.

Of significant concern to R&CA's members in WA is the cost of employing staff which on average equates to 44 per cent of businesses' overall expenditure. In light of this, R&CA would recommend that the setting of the minimum wage in WA not exceed that at a Commonwealth level. This however is not to suggest that the Commonwealth indicators such as the setting minimum wage should not be used as an indicator or general guide. Furthermore, R&CA would also recommend that the WA Government avoid gazetting any additional public holidays which would pass on increased penalty rates to businesses in the state's hospitality sector.

R&CA believes that the design and structure of the State's Industrial Relations system has significant ramifications for the ongoing sustainability and profitability of the WA hospitality sector. Therefore, it would urge the WA Government to consider balancing the needs of both employers and employees as a central tenet of this Review process ensure that the ultimate outcomes achieved contribute to a system which is contemporary, fair and accessible.

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RESTAURANT & CATERING AUSTRALIA

PO Box 121
SURRY HILLS NSW 2010

T | 1300 722 878

F | 1300 722 396