

The Australian Industry Group

Proposed Variations to the *General Retail Industry Award 2020*

Further Submission
(AM2024/9, AM2024/26, AM2024/33 &
AM2024/40)

15 November 2024



AM2024/9, AM2024/26, AM2024/33 & AM2024/40

PROPOSED VARIATIONS TO THE *GENERAL RETAIL INDUSTRY AWARD 2020*

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1. INTRODUCTION

1. This submission of the Australian Industry Group (**Ai Group**) is filed pursuant to direction [5] of the further amended directions issued by the Fair Work Commission (**Commission**) on 19 September 2024.
2. Accordingly, this submission is made by Ai Group in support of materials filed by the Australian Retailers Association (**ARA**) and Master Grocers Australia (**MGA**) on 1 November 2024 pursuant to direction [2] of the further amended directions.

2. VARIATIONS PROPOSED BY THE ARA

3. Regarding '*Proposal A – Amendment to make clear that 'written' records include digital records*'; Ai Group supports that proposal, noting it is consistent with proposals advanced by Ai Group on 22 December 2023 in the Award Review 2023 – 24 (**Review**). Specifically, Ai Group proposed variations to the *General Retail Industry Award 2020 (GRIA)* and certain other awards to expressly provide that writing-related obligations and signature provisions could be met by utilising electronic means.¹
4. Ai Group supports '*Proposal B – Amendment to allow for split shift with employee agreement.*'
5. Ai Group supports the terms of '*Proposal C – Amendment to minimum break between shifts on different days*'. However, if the GRIA is varied in accordance with new clause 16.6 which Ai Group has proposed in these proceedings,² the ARA proposed amendment should be renumbered clause 16.7.

¹ See Ai Group submission dated 22 December 2023 at [162] – [176] and the accompanying Draft Determination at [7] – [28].

² See Ai Group submission dated 1 November 2024 at [5] – [14], and the accompanying Draft Determination at [3].

6. Regarding *'Proposal D – Amendment to improve ability to average hours over longer periods'*, Ai Group supports the proposed variations to clauses 15.6(g)(v) and 15.7(a).
7. The apparent effect of the ARA's proposal for a variation to clause 18.2 is the same (or at least substantially the same) as Ai Group's proposed new clause 18.4.³ In both cases, the proposed clause would expressly provide that wages can be paid on an averaging basis, thus complementing existing clauses 15.6(a) and 15.6(g) which expressly allow for ordinary hours to be averaged.
8. Therefore, regardless of whether the GRIA is varied at clauses 15.6(g)(v) and 15.7(a) as proposed by the ARA, the GRIA should be varied at clause 18 to complement existing conditions at clauses 15.6(a) and 15.6(g), by providing for pay averaging.
9. Ai Group supports *'Proposal F – Amendment to remove restriction of 19 starts for full-time employees'*.
10. Ai Group supports *'Proposal G – Amendment to enable 38 hours to be worked across four days'*.
11. Ai Group supports *'Proposal H – Amendment to improve flexibility to requirement for consecutive days off by agreement'*.
12. Ai Group supports *'Proposal I – Amendment to clarify employees regularly working Sundays'*.
13. Regarding *'Proposal J – Amendment to introduce salaries absorption for managerial and higher-level staff'*; Ai Group supports, in principle, the inclusion of an exemption rate in the GRIA and indeed has advanced its own proposal in this regard.

³ See Ai Group Submission dated 1 November 2024 at [17] – [34], and the accompanying Draft Determination at [5].

14. The proposal advanced by the ARA deviates substantially from ours in various ways, including the following features:
 - (a) The clause would apply only where agreed between the employer and employee (clause 17A.1(2));
 - (b) Record keeping obligations (clauses 17A.2 and 17A.3);
 - (c) Minimum days off during the work cycle (clause 17A.5);
 - (d) Minimum breaks between the finish of work on one day and commencement on the next day (clause 17A.6);
 - (e) Additional entitlements where work exceeds an average of 43 hours per week over a 6 month period (clause 17A.7);
 - (f) Additional payment for public holiday work (clauses 17A.8 and 17A.9); and
 - (g) Meal breaks (clause 17A.10).
15. It is not apparent that these extensive prescriptions are necessary. Indeed, many of the benefits typically associated with an exemption rate would be lost if they were adopted; particularly those set out at paragraphs [54](c), (d), (e) and (f) of our submission dated 1 November 2024. In some instances, the provisions would impose a significant regulatory burden upon employers (particularly clauses 17A.3 and 17A.7).
16. In our submission, the provision proposed by Ai Group is a more appropriate one, for the reasons articulated in the aforementioned submission. It would be preferable that any exemption rate clause not include the elements listed above.
17. Ai Group supports *‘Proposal L – Amendment to remove requirements to notify break times in advance’*.

18. Ai Group supports *‘Proposal O – Amendment to clarify annual leave loading’*, noting that this matter was also advanced, in part, by Ai Group during the Review.⁴
19. Regarding *‘Proposal P – Amendment to provide an ability for employees to waive a meal break and go home early’*, Ai Group supports that proposal, noting it is consistent with Ai Group’s proposed variation to clause 16 with respect to conditions for rest and meal breaks.⁵
20. Regarding *‘Proposal Q – Amendment to clarify the application of the first aid allowance’*; Ai Group supports a variation to clarify the application of this allowance, and has proposed such a variation albeit expressed in terms different from the ARA proposal.⁶

3. VARIATION PROPOSED BY MGA

21. To address the issue identified by MGA, Ai Group supports the inclusion of a notation immediately underneath the heading *‘Schedule A – Classification Definitions’* of the GRIA. However, Ai Group respectfully submits that the notation would be expressed more appropriately in the following terms:

NOTE: If an employer requires an employee to perform duties of a classification higher than the employee’s ordinary classification, the employer must pay the employee in accordance with clause 17.5 of this award.

22. Relevantly, the above proposal does not adopt the proposition that an employer can *‘temporarily assign a higher classification level to an employee’*.

⁴ See Ai Group submission dated 22 December 2023 at [103] – [110] and the accompanying Draft Determination at [9].

⁵ See Ai Group submission dated 1 November 2024 at [2] – [16], and the accompanying Draft Determination at [1] – [3].

⁶ See Ai Group submission dated 1 November 2024 at [35] – [39], and the accompanying Draft Determination at [6].

4. EXEMPTION RATE – CORRECTION TO 1 NOVEMBER 2024 SUBMISSION

23. A table of minimum annual rates is set out at paragraph 46 of Ai Group's Submissions dated 1 November 2024. It appears that the rates are incorrect. The corrected rates are as follows.

Classification	Min. annual rate ⁷	Min. exemption rate
Level 4	\$53,851.65 ⁸	\$67,314.55 ⁹
Level 5	\$56,063.50 ¹⁰	\$70,079.38 ¹¹
Level 6	\$56,877.30 ¹²	\$71,096.65 ¹³
Level 7	\$59,730.80 ¹⁴	\$74,663.50 ¹⁵
Level 8	\$62,156.60 ¹⁶	\$77,695.75 ¹⁷

⁷ Weekly rates as per *General Retail Industry Award 2020*, table B.1.1., Schedule B as varied by PR773888 operative from 1 July 2024.

⁸ $\$1,032.30 \times (313/6) = \$53,851.65$

⁹ $\$53,851.65 \times 1.25 = \$67,314.55$

¹⁰ $\$1,074.70 \times (313/6) = \$56,063.50$

¹¹ $\$56,063.50 \times 1.25 = \$70,079.38$

¹² $\$1,090.30 \times (313/6) = \$56,877.30$

¹³ $\$56,877.30 \times 1.25 = \$71,096.65$

¹⁴ $\$1,145 \times (313/6) = \$59,730.80$

¹⁵ $\$59,730.80 \times 1.25 = \$74,663.50$

¹⁶ $\$1,191.50 \times (313/6) = \$62,156.60$

¹⁷ $\$62,156.60 \times 1.25 = \$77,695.75$.