



Dear Member

MEMBER ADVICE 25 – AUGUST 2010

OVERTIME AND THE GENERAL RETAIL INDUSTRY AWARD 2010

The Fair Work Ombudsman has advised us that, in its interpretation, overtime is **not** payable to casuals.

Clause 12.6 of the General Retail Industry Award 2010 provides that an employee who is not a full-time or part-time employee will be paid as a casual employee in accordance with clause 13.

Clause 13 only provides for a casual loading and certain penalty rates. Further, the overtime provisions of the retail award only make reference to employees other than casuals, and relate to the ordinary hours for full-time employees.

We do warn members that the Ombudsman, while being the enforcement body for the Federal Government, may be incorrect in its interpretation. If the Ombudsman is wrong then back-payment may need to be made if a court later finds that overtime should have been paid to casuals.

Where wage schedules have referred to an overtime rate for casuals, please ignore if you make that decision to apply the FWO interpretation.

Please contact the Anton Duc if you have any queries on 1300 918 616.

Yours sincerely

Anton Duc
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Baking Industry Association (NSW Employers)