

**IN THE FAIR WORK COMMISSION (FWC)**

**IN THE MATTER OF:**

*An application pursuant to s 157 of the Fair Work Act 2009 (Cth) – FWC may vary etc. modern awards if necessary, to achieve modern awards objective*

**Award Flexibility – Retail Sector**  
(AM2021/7)

**GENERAL RETAIL INDUSTRY AWARD 2020**  
**[MA000004]**

**BY:**

The Shop, Distributive and Allied Employees' Association (“**SDA**”)

AND

Australian Workers' Union

AND

Master Grocers Australia Limited (“**MGA**”)

(collectively, “**the Applicants**”)

**MGA'S OUTLINE OF SUBMISSIONS**

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Date of Document:	2 March 2021	Solicitors Code:	–
Filed on behalf of:	the Applicants	DX:	–
Prepared by:	MGA	Telephone:	(03) 9824 4111
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1. These submissions are made on behalf of the Applicants in the matter of AM2021/7, which is currently before the FWC.
2. The Application is made pursuant to s 157 of the *Fair Work Act 2009* (Cth) (“**the Act**”) seeking to vary the General Retail Industry Award 2020 (“**GRIA**”) if necessary, to achieve the modern awards objective in line with s 134 of the Act.

3. MGA is an employer association representing independent grocery, liquor, timber, and hardware businesses.
4. Independently owned and operated Supermarkets, Liquor, Timber (suppliers, processors, and wholesalers) and Hardware businesses play a major role in the retail industry and make a substantial contribution to the communities in which they trade. Many MGA members are small family businesses, many employing 25 or fewer staff.
5. In Australia there are over 4,000 independently owned and branded and non-branded, Supermarket, Liquor, Timber and Hardware businesses. There are 2,700 branded independent grocery stores, 1,300 independent supermarkets trading under their own local brand names. These stores are either single or multi-site owners.
6. These grocery, liquor, timber, and hardware businesses collectively employ more than 120,000 staff and are comparatively much smaller when compared with the large national supermarket and hardware chains which combined represent approximately 80 per cent of the retail supermarket and liquor industries and 65% of hardware industries.
7. These grocery, liquor, timber, and hardware businesses range in size from small, to medium and large, and make a significant contribution to the retail industry, accounting for approximately \$16 billion in retail sales. These businesses are generally award reliant.
8. MGA's position mirrors and supports the SDA's outline of submissions dated, 2 March 2021 and in addition presents the following:
  - a. Whilst MGA's businesses are small, and not well resourced to the same extent as large businesses, they strive to be compliant with the law, but it is easy for them to make mistakes and therefore, they need simple directions that will assist them in their day-to-day operations.
  - b. Many underpayments of wages result in large back payments of wages which are justifiable if an employee is paid incorrectly. However, it is essential to provide clarity and ease of administration in an award to ensure that wages and all entitlements are clearly understood.
  - c. The proposed Schedule I to the GRIA will allow small and medium sized enterprises to cooperate with their part-time employees to mutually agree on increased hours without the administrative and financial burdens currently seen under the GRIA.
  - d. Schedule I will encourage employers to consider engaging their employees as permanents, transitioning the workforce from the overly used casual employment. In turn, that will ensure security of engagement and regularity of work.

- e. Schedule I does not add additional risk of disputes, rather and on the contrary, the Schedule further clarifies the engagement of part-time employees, particularly since this topic has been the subject of regular debate between key stakeholders in the retail industry.
  - f. Also, Schedule I sets out how disputes between employers and their employees are to be handled. The Schedule does not negate the initial steps of the dispute resolution process of the GRIA, including conciliation.
  - g. The parties are not obligated to reach an agreement in writing at a time prior to the commencement of the varied hours but may be made as soon as practicable. This provides some flexibility as to when the written agreement must be produced. It does not add red tape obligations to employers, rather, it simplifies the nature of the agreement between the relevant parties as it may simply be reflected in an email or text message.
  - h. If employers are not interested in utilising Schedule I, they are not obligated to do so. The Schedule is proposed on a voluntary “opt in” and “opt out” basis.
  - i. If an employee enters into an agreement with their employer under Schedule I and the additional hours are not worked, the employer may, by mutual agreement with their employee, terminate the agreement with 24 hours' notice.
9. MGA supports the Modern Awards Objective of the Act pursuant to s 134, particularly (g), being:
- the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia ...*
10. MGA strongly believes that this is relevant to this Application.
11. We thank the FWC for the opportunity for making this brief submission in support of the Application.

**Master Grocers Australia Limited**  
2 March 2021