



RED ALERT: WINDOW OF OPPORTUNITY FOR BOARDING KENNELS TO 'LOCK IN' NO OVERTIME, SATURDAY OR SUNDAY PENALTIES

What award applies to staff working at a Kennel/Cattery?

On behalf of PIAA, IR Assist has been lobbying the Fair Work Ombudsman since July 2010 and negotiating with its legal advisers to keep the positions of animal attendant and groomers employed in Boarding Kennels out of the Coverage of Modern Awards.

Having debated the issue internally for months the Fair Work Ombudsman has finally concluded the following States/Territories are Award free:

- Tasmania
- South Australia
- Queensland
- Western Australia
- Australian Capital Territory
- Northern Territory

Kennels in New South Wales and Victoria remain bound by pre-Modern 'State Awards'.

What does this mean for those in the 'Award-free' Category?

It means the employer is bound to pay only the Federal minimum wage (\$15.00 per hour), minimum casual loading and the National Employment Standards. Of course employers may choose to pay in excess of this or do so to attract appropriate staff.

The relevant point here is that currently these employers are not required to pay overtime, Saturday, Sunday or Public Holiday penalty rates.

Will this situation stay the same and if not what are the cost implications to my business?

This is one answer the Fair Work Ombudsman is refusing to provide.

We are aware there is internal debate involving the Fair Work Ombudsman Knowledge Services Team and their legal advisers. It seems likely to us that there are moves to do one of the following:

- Alter the application of the Modern Miscellaneous Award to cover all businesses not covered by another Modern Award – regardless of their previous 'non-coverage'; or

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- Introduce a new Modern Award specific to this industry

The effect of either of these outcomes is Boarding Kennel employers will be required to pay overtime, Saturday, Sunday and Public Holiday penalty rates to animal attendants – this will have significant labour cost implications

The implications (with **double-time** on Sundays for instance being the outcome) are disastrous. *For instance, if one employer paid the minimum wage of \$15 p/hr for 8 hrs each Sunday and another employer had to pay doubletime (\$30 p/hr) over 4 years (the life of an Enterprise Agreement) the difference would be **\$25,000 extra for the employer paying doubletime. That is based on one employee only and doesn't include the requirement to pay overtime, Saturday and Public Holiday penalties as well. Clearly the potential cost implications to your business are enormous.***

What can Employers do to avoid this outcome and 'lock in' the current no penalty rate position ?

The only way to lock in the current no penalty position is to implement an Enterprise Agreement; which will last for up to 4 years.

Once implemented an Enterprise Agreement has the effect of overriding and displacing any otherwise applicable Award.

This means if an employer implements an Enterprise Agreement now, with no penalty rates applicable, when a new Award is applied to the Industry containing penalty rates (which seems highly likely) the employers Enterprise Agreement will override the Award – meaning employers with Enterprise Agreements will not have to pay penalty rates; those without them will.

Employers without an Enterprise Agreement in this scenario will be at a significant commercial disadvantage against competitors.

Implementing an Enterprise Agreement in these circumstances is a 'no brainer' insurance policy.

This window of opportunity is likely to be closed within a short period of time (hard to say but possibly within the next month). Our strong recommendation is for all employers in this category to implement an Enterprise Agreement IMMEDIATELY.

How do you implement an Enterprise Agreement and at what cost?

This process is subject to compliance with complex legislation. IR Assist are experts at Enterprise Agreements and can complete this process for approximately \$1500 – **when considering the potential cost saving of \$25,000 based on just one employee this is negligible.**

**Contact IR Assist immediately to protect your business
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