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## Award Modernisation and Flexibility Arrangements

**The Retail Industry Award 2010 (the Modern Award), which will cover a broad range of retail operations including supermarkets, grocery stores, clothing, soft goods and department stores, came into effect on 1 January 2010. It will displace the operation of various Awards and Notional Agreements Preserving State Awards previously covering this industry.**

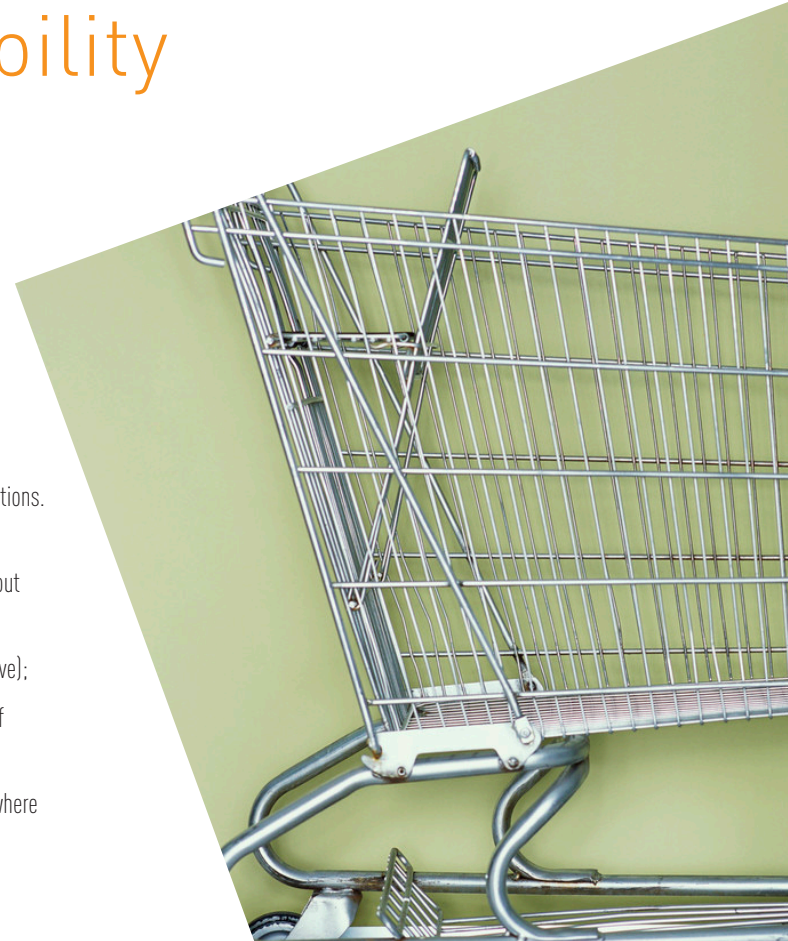
During 2009, the Australian Industrial Relations Commission (AIRC) finalised the content of the Retail Modern Award (and all other Modern Awards). One inclusion in the Modern Award not previously a feature of the awards is the model flexibility term. This aims to enable an employer and an individual employee to agree on arrangements to meet both their genuine needs.

Unlike with Australian Workplace Agreements (AWAs), an individual flexibility arrangement (IFA) under a modern award cannot be offered as a condition of employment. An IFA must also ensure that the employee is better off overall. Modern Award conditions that may be varied pursuant to the flexibility clause include:

- arrangements for when work is performed;
- overtime rates;
- penalty rates;
- allowances; and
- leave loading.

The use of an IFA under the Modern Award is subject to certain conditions. The arrangement must:

- be genuinely agreed between the employer and employee without coercion or duress;
- identify the terms being varied (and be confined to the list above);
- not disadvantage the employee in their terms and conditions of employment (by applying the 'Better Off Overall' test);
- be in writing and signed by both the employee and employer (where the employee is under 18 years old, the employee's parent or guardian must sign);



- state each term that has been agreed to, detailing how the application of each term has been varied by agreement and how the agreement does not disadvantage the employee in their terms and conditions of employment, as well as the date the agreement commences; and
- ensure the document is given to an employee (and kept by the employer as a time and wages record).

As the Modern Award is now in force, businesses affected should make themselves aware of all the changes to conditions in the Awards, including the following:

- employment categories and types of employment;
- termination of employment/redundancy;
- classifications and wage rates, including junior and apprentice rates, and allowances (taking into account any 'phasing in' provisions);
- ordinary hours of work and notification of rosters; and
- requirements as per the National Employment Standards.

A copy of the award can be located at <http://www.airc.gov.au/awardmod/awards/MA000004.pdf>

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