

BULLETIN

Licensed Motor Car Traders



Reference No: LMCT 03-17

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Fair Work Commission decision - Vehicle Salespersons Remuneration

Dear Member

As a result of a Fair Work Commission decision in August 2016 the remuneration arrangements for Vehicle salespersons will change, effective from 1 January 2018.

From this date under the modern award, commissions earned by a vehicle salesperson can be used to offset additional hours worked by a vehicle salesperson in excess of 38 hours.

In November 2013, the Fair Work Ombudsman released a legal opinion setting out its preliminary position that commissions could not be used to pay for any additional hours worked by vehicle salespersons in excess of 38 hours.

The award change, effective from 1 January 2013, means that commissions can be used to compensate additional hours worked based, on the award minimum hourly rate of pay.

For your information a vehicle salesperson is defined under the Vehicle Manufacturing, Repair, Services and Retail Award 2010 as follows:

1. **Agricultural vehicle salesperson** means an employee employed in the sale of agricultural motor vehicles and self-propelled farming implements or units for which the agricultural motor vehicle or self-propelled farming implement provides the motive power.
2. **Motor vehicle salesperson** means an employee employed in the sale of road and industrial vehicles, motorcycles, caravans, trailers and /or boats (being recreational boats which are towed by a vehicle up to a prescribed tonnage rate under the Australian Design Rules.

It is very important that members are aware that the most effective way to ensure the new remuneration arrangements are introduced in a way which reflects the intent of the new award provision is via a written contract of employment. The contract must expressly state that commissions can be used to offset all additional hours worked in excess of 38 hours. The VACC Industrial Relations Department can draft a contract which covers any business which employs salespersons.

It is also important for members to be aware that this express award provision, when it is introduced, *only applies to vehicle salesperson covered by the definitions outlined above*

You can take this link to view the entire [Vehicle Salespersons Remuneration Payment for hours worked in excess of 38 hours report](#).

If any member does not understand the requirements and implications of the new changes you can contact Bill Chesterman, VACC Industrial Relations Manager on 9829 1122.

Regards

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