

Australian Industry Group Outline of Issues

4 December 2014

4 Yearly Review of Modern Awards – Proposed Variations to Group 4 Awards (Penalty Rates) (AM2014/267 and others)



4 Yearly Review of Modern Awards
Proposed Variations to Group 4 Awards
AM2014/267 and others

1. Introduction

1. Ai Group has prepared this Outline for the purpose of the Conference scheduled for 12 December 2014, regarding penalty rates issues in Group 4 Awards.
2. Pursuant to the Commission's Statement of 28 November 2014 ([2014] FWC 8575), this Outline addresses:
 - (a) Ai Group's proposed list of matters to be discussed at the Conference;
 - (b) Ai Group's position, in summary form, in respect to each of those matters;
and
 - (c) An outline in relation to:
 - the nature and scope of the changes sought to the *Fast Food Industry Award 2010*;
 - an estimate of the extent of the witness evidence; and
 - an estimate of the number of hearing days required.

2. Proposed list of matters to be discussed at the Conference

3. Ai Group understands that the purpose of the Conference is to deal with programming and scheduling issues associated with penalty rates claims that have been foreshadowed in relation to up to nine modern awards¹.
4. Accordingly, Ai Group proposes that the list of matters to be discussed include the following:

¹ [2014] FWC 8575 at [3] – [6]

(a) Whether the evidence in support of applications to vary penalty rates for a particular award should be heard:

- separately; or
- at the same time

as the evidence in support of applications to vary other aspects of the same award.

(b) Whether the applications to vary penalty rates in different awards should be dealt with jointly, or heard separately.

(c) Timetabling for filing evidence and submissions.

(d) The order in which the various penalty rates applications will be programmed.

5. Ai Group's position, in summary form, in relation to these matters is set out at 4 below.

3. *Fast Food Industry Award 2010*

6. Ai Group proposes changes to the penalty rates contained in the *Fast Food Industry Award 2010* including changes to:

- Sub-clause 25.5(a) - Evening work Monday to Friday
- Sub-clause 25.5(b) - Saturday work
- Sub-clause 25.5(c) - Sunday work
- Sub-clause 30.3 - Payment for work on a public holiday

7. Ai Group will also be proposing changes to other aspects of the *Fast Food Industry Award 2010*, in addition to penalty rates.

8. Ai Group estimates that the witness evidence will be extensive and will include witness statements from employers, survey evidence and expert evidence.

9. It is currently estimated that approximately 10 days' may be required to hear the matter. Ai Group will be in a position to refine this estimate at further conferences during early 2015.

4. Ai Group's position in relation to programming & scheduling issues

10. In summary form, Ai Group submits that:
- (a) The evidence in support of its application to vary penalty rates in the *Fast Food Industry Award 2010* should be heard with the evidence in support of other variations sought to that Award.
 - (b) The application to vary penalty rates in the *Fast Food Industry Award 2010* should be heard separately from applications to vary penalty rates in other awards.
 - (c) Ai Group does not anticipate being in a position to file evidence and submissions in support of the penalty rates application any earlier than mid-2015.
 - (d) Subject to the timing consideration outlined at (c) above, Ai Group does not currently have a view as to any apparent ordering of the penalty rates applications for determination.