



Fair Work Commission: 4 yearly review of modern awards

SUBMISSIONS: GROUP 2 AWARDS

AUSTRALIAN BUSINESS INDUSTRIAL

- and -

THE NSW BUSINESS CHAMBER LTD

15 MARCH 2019

BACKGROUND

1. These submissions relate to the exposure drafts for Group 2 awards.
2. In a statement issued on 13 February 2019 the Commission provided an overview of the status of the award stage of the 4 yearly review of modern awards and a timeline for the finalisation of exposure drafts.
3. The Commission directed interested parties to file written submissions on the updated exposure drafts published in February 2019.
4. These submissions are made on behalf of Australian Business Industrial (**ABI**) and the New South Wales Business Chamber Ltd (**NSWBC**). ABI is a registered organisation under the *Fair Work (Registered Organisations) Act 2009*. NSWBC is a recognised State registered association pursuant to Schedule 2 of the *Fair Work (Registered Organisation) Act 2009*.
5. ABI and NSWBC has a material interest in the following Group 2 awards which are dealt with in these submissions:
 - (a) Graphic Arts, Printing and Publishing Award;
 - (b) Health Professionals and Support Services Award;
 - (c) Nurses Award;
 - (d) Pharmacy Industry Award;
 - (e) Road Transport (Long Distance Operations) Award;
 - (f) Road Transport and Distribution Award;
 - (g) Seafood Processing Award;
 - (h) Storage Services and Wholesale Award; and
 - (i) Waste Management Award.
6. ABI and NSWBC appreciate the opportunity to provide the following submissions on the Group 2 award exposure drafts.

GRAPHIC ARTS, PRINTING AND PUBLISHING AWARD

Clause 24.9(j)

7. There is a typographical error in the note (*“Actfor”*).

Clause 33

8. The heading *“Abandonment of employment”* should be deleted given the deletion of that clause.

HEALTH PROFESSIONALS AND SUPPORT SERVICES AWARD

Clause 8.3(b)

9. The words *“or in an emergency”* are repeated in the clause and should be removed.

NURSES AWARD

Clause 8.2(f)

10. There is a formatting issue that should be updated in accordance with PR703715 (with clause numbers updated).

Clause 15.5(a) and 15.6(a)

11. Our clients propose an amendment to each clause as follows:

*“...will be paid **for** a minimum of three hours’ work...”*

Clauses 15.5(b) and 15.6(b)

12. The first reference to *“one hour’s work”* in each clause needs to be corrected to include an apostrophe.

Clause 17.9(b)

13. The Commission has enquired whether the entitlement to annual leave loading or weekend and shift penalties for shift workers during periods of leave at clause 17.9(b)(i) and (ii) is based on 4, 5 or 6 weeks of leave.

14. Our clients consider that the relevant period is 5 weeks, for the following reasons:

- (a) employees other than a shiftworker receive loading in respect of the National Employment Standards’ entitlement (i.e. 4 weeks), but not in respect of the additional week of leave provided for under the Award (the ‘bonus week’);
- (b) other modern awards which contain a similar entitlement to annual leave loading or penalties prescribe that shiftworkers will receive those benefits in respect of 5 weeks of their accrued annual leave (see, for example, the *Manufacturing and Associated Industries and Occupations Award 2010*); and
- (c) it would be an inequitable outcome for shiftworkers to receive an additional monetary benefit in respect of their ‘bonus’ week, but not to extend the same entitlement to employees other than shiftworkers.

PHARMACY INDUSTRY AWARD

15. Our clients have no submissions to make in respect of the revised exposure draft.

ROAD TRANSPORT (LONG DISTANCE OPERATIONS) AWARD

16. Our clients have no submissions to make in respect of the revised exposure draft.

ROAD TRANSPORT AND DISTRIBUTION AWARD

Clause 13.3(b)(ii)-(iii)

17. An existing error in the Grade 10 definition in Schedule C of the current *Road Transport and Distribution Award 2010* has been replicated in clause 13.3(b)(ii) of the exposure draft. Our clients propose that the two clauses should be combined and redrafted as follows:

“(ii) A Transport Worker Grade 10, when driving a multi-axle platform trailing equipment with a carrying capacity in excess of 100 tonnes will be paid:

- for each additional 10 tonnes or part thereof in excess of 100 tonnes and up to 150 tonnes, an extra \$17.23 per week; and
- for each additional 10 tonnes or part thereof in excess of 150 tonnes and up to 200 tonnes, an extra \$16.52 per week; and
- for each additional 10 tonnes or part thereof in excess of 200 tonnes and up to 300 tonnes, an extra \$16.13 per week.

These amounts are to be paid as part of the weekly wage rate for all purposes”

18. The allowances and clause references listed in the table at clause D.1 would need to be updated accordingly.

Schedule B – Classification Structure

19. By removing the special vehicle allowances from the definition of Transport Worker Grade 10, the definition now reads:

“Driver of a multi-axle platform trailing equipment with a carrying capacity over 70 tonnes and up to and including 100 tonnes”.

20. This suggests that the award does not cover drivers of multi-axle platform trailing equipment with a carrying capacity over 100 tonnes, despite allowances being provided for such drivers in clause 13.3(b).

21. Our clients suggest amending the Transport Worker Grade 10 definition to read:

“Driver of a multi-axle platform trailing equipment with a carrying capacity over 70 tonnes”.

SEAFOOD PROCESSING AWARD

22. Our clients have no submissions to make in respect of the revised exposure draft.

STORAGE SERVICES AND WHOLESALE AWARD

Clause 3.2 & Schedule G

23. The definition of “*storage services and wholesale industry*” has been removed from Schedule G and the definition instead refers the reader to the definition of this term in clause 3.2 of the Award.
24. However, clause 3.2 of the Award contains no definition of “*storage services and wholesale industry*”.
25. The definition of “*storage services and wholesale industry*” should be inserted into clause 3.2 of the Award in accordance with [2017] FWCFB 3433 at [339].

WASTE MANAGEMENT AWARD

Schedule A

26. The public holiday percentages have not been updated in Schedule A (specifically A.2.1) for consistency with clause 21.5(a).



Luis Izzo
Managing Director - Sydney Workplace
Australian Business Lawyers & Advisors Pty Limited
(02) 9458 7640
Luis.izzo@ablawyers.com.au



Kyle Scott
Associate Director
Australian Business Lawyers & Advisors Pty Limited
(02) 4989 1010
kyle.scott@ablawyers.com.au

On behalf of Australian Business Industrial and the NSW Business Chamber Ltd

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