



REPORT TO THE FULL BENCH

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 Yearly Review of Modern Awards: Various Awards

(AM2014/217 and others)

COMMISSIONER ROE

MELBOURNE, 2 MAY 2016

Four yearly Review of Modern Awards: Various Awards - Report to the Full Bench.

[1] A Conference was held on 29 April 2016 in relation to:

- AM2014/217 – *Banking, Finance and Insurance Award 2010*
- AM2014/218 – *Business Equipment Award 2010*
- AM2014/222 – *Contract Call Centres Award 2010*
- AM2014/221 – *Commercial Sales Award 2010*
- AM2014/242 – *Real Estate Industry Award 2010*
- AM2014/248 – *Telecommunications Services Award 2010*

[2] The matters raised by the parties as discussed at the 21 April 2016 conference are dealt with in the revised summary of submissions report and the revised exposure draft. The matters were further discussed at a conference on 29 April 2016. **Unless parties advise otherwise in the reply submissions due 5 May 2016 we proceed on the basis that the only matters outstanding from the submissions received in respect to the exposure drafts are set out below.**

[3] Some discussion has also occurred in respect to the variations proposed by parties as set out in the summary of proposed variations document (24 February 2016). The progress in respect to those matters is also reported below.

[4] Outstanding issues and matters resolved at the 29 April 2016 conference:

GENERAL

- a. The general submissions raised by AiGroup in Section 2.7 of the submission of 14 April 2016 re the Schedules summarising hourly rates of pay. This matter will be referred to the Full Bench.
- b. The general matters raised in the ABI submission of 15 April 2016 at Section 2.1, 2.2, 2.3, 2.11 and 2.13 noting that some of these submissions seek to change Full Bench decisions. ABI will clarify in their reply submissions if they are pursuing these matters. To the extent that they are they will be referred to the Full Bench.

BUSINESS EQUIPMENT AWARD 2010

1. Item 29 of Summary of Submissions: In respect to Clause 11.3(b)(i) definition of country territory. The proposal raised by ABI of 28 April 2016 will be further considered by the parties and any comments should be made by 16 May 2016. If there is consensus the ABI proposal will be included in the exposure draft. If there is discord a further conference may be needed.
2. Item 25 of Summary of Submissions: In respect to Clause 10.2 re exemptions for higher paid in clerical stream. FWC will shortly propose, for discussion, a possible amendment to the list of clauses and parties are requested to respond to this proposal by 16 May 2016. If there is consensus the proposal will be included in the exposure draft. If there is discord a further conference may be needed.
3. Item 34 of Summary of Submissions: Clause 11.4(c). Reference to State workers compensation will be deleted from the next version of the exposure draft. This matter is resolved.
4. Item 52: Clause 17.2(b) re annual leave loading. The words “of the ordinary hourly rate” will be deleted in Clause 17.2(b)(i) and (ii) in the next exposure draft. This matter is resolved.
5. Item 45: Clause 15.4 re daylight saving. The matter was further discussed at 29 April conference. There was no consensus to support the ABI proposal at the conference on 29 April. The proposal is a substantive change to the current award. If ABI wish to pursue this matter further then they will need to indicate this in their reply submission and the matter will then need to be added to the outstanding matters and dealt with by a Full Bench.
6. Item 57: Schedule B. AMOD identified an error following the conference of 26 April 2016. Clause B1.1 needs to be properly formatted and the following sentence added: “Where an allowance is payable for all purposes in accordance with Clause 11.2, this forms part of the employee’s ordinary hourly rate and must be added to the minimum hourly rate prior to calculating penalties and overtime.” The second row of the table in B2.1 should be “% of ordinary hourly rate”. Clause B.1.2 should include an addition that “Consistent with Clause B.1.1, all purpose allowances need to be added to the rates in the table where they are applicable”. Changes will be reflected in the next version of the exposure draft.
7. Item 2: AiGroup proposal to vary the table of facilitative provisions in Clause 5.2. Following discussion at the conference on 29 April 2016 the next version of exposure draft will be varied to show in the table in Clause 5.2 that Clause 21.2 can be varied by an individual or the majority of employees. This matter is resolved.
8. Item 60: Clause B3.2 re Sunday 200% rate was further discussed at the conference on 29 April 2016. If the AiGroup wish to pursue this matter further then they will need to indicate this in their reply submission and the matter will then need to be added to the outstanding matters and dealt with by a Full Bench.
9. Item 5 of the Summary of Submissions: If AiGroup wish to pursue this matter they will need to advise in their reply submission and the matter will then be a substantive matter which will need to be added to the outstanding matters and dealt with by a Full Bench.
10. Item 36 of the Summary of Submissions: If AiGroup wish to pursue this matter they will need to advise in their reply submission.

11. The following are the outstanding items from the 24 February 2016 summary of variations document: Item 2 (referred to separate full bench AM2016/8), Item 1 re country territory (see Item 29 above).

BANKING, FINANCE AND INSURANCE AWARD 2010

1. Item 25 Summary of Submissions: Clause 11.3(b)(ii) re the issue of standby or call back. Following further consideration at the conference on 29 April 2016, the amendment sought by AiGroup will be made to the next version of the exposure draft. This matter is resolved.
2. Items 18 and 27 Summary of Submissions: If AiGroup wish to pursue these matters they will need to advise in their reply submission.
3. The following are the outstanding items from the 24 February 2016 summary of variations document: Item 1 (Part time/ Casuals Full Bench) and Item 4 Business SA (see also item 14 of the summary of submissions document- this is a substantive item to change the hours when afternoon shift penalties apply).

COMMERCIAL SALES AWARD 2010

1. No drafting issues outstanding (a revised exposure draft has been published which reflects the matters agreed at the conference of 26 April 2016).
2. The following are the outstanding items from the 24 February 2016 summary of variations document: Items 1 and 2 (referred to annual leave full bench).

CONTRACT CALL CENTRES AWARD 2010

1. Parties are encouraged to discuss the CPSU trainer proposal (item 3 in summary of proposed variations). If requested a further conference may be convened.
2. Item 24: AiGroup proposal re annual leave (item 2 in summary of proposed variations). Following discussion at the 29 April 2016 conference it was agreed that the next version of the exposure draft will include the AiGroup proposed amendment to Clause 15.3 (correspondence of the 28 April 2016) with the addition of the introductory words in the current draft, "Instead of the base rate of pay as referred to in s. 90(1) of the Act". The words "of the minimum hourly rate" in Clause 15.4(a) will be deleted. This matter is resolved.
3. Item 38: B.2.3 the exposure draft has now removed the 25% loading for casuals on overtime. If the unions wish to pursue this matter further they will need to address this in reply submissions.
4. Item 5: Clause 8.1. AiGroup will provide further details in reply submissions re Section 147 issue.
5. Item 12: Clause 13.1.ABI proposal. Following further discussion at the conference on 29 April 2016, the next exposure draft will include a note against the "ordinary hours worked" in the table that "the spread of ordinary hours is defined in Clauses 8.6 and 8.8. This matter is resolved.
6. Item 16: Clause 14 overtime. ABI proposal. The clause relates to the daily or weekly number of hours and not to the spread of hours. No change is required to the exposure draft.

7. The following are the outstanding items from the 24 February 2016 summary of variations document: Item 1 (referred to separate full bench), Item 3 (see point 1 above), Item 4 re annual salaries.

REAL ESTATE INDUSTRY AWARD 2010

1. No exposure drafting issues outstanding (a revised exposure draft has been published which reflects the matters agreed at the conference of 26 April 2016).
2. Outstanding variation proposals have been referred to a separate Full Bench.

TELECOMMUNICATIONS SERVICES AWARD 2010

1. Item 34: Parties are encouraged to discuss the CPSU trainer proposal (item 1 in summary of proposed variations). If requested a further conference may be convened.
2. Item 12: The next version of the exposure draft will include a table of rates in Schedule B for casuals overtime and those rates will be as per B.2.4 for full time and part time employees. If the unions wish to claim that the current award provides that casuals are entitled to casual loading in addition to overtime penalties when working overtime they will need to do so in the reply submissions. If the unions are making a claim to alter the current award then this would need to be referred to a Full Bench.
3. Item 31: AiGroup proposal re annual leave (item 2 in summary of proposed variations). Following discussion at the 29 April 2016 conference it was agreed that the next version of the exposure draft will include the AiGroup proposed amendment to Clause 16.3(a) (correspondence of the 28 April 2016) with the addition of the introductory words in the current draft, "Instead of the base rate of pay as referred to in s. 90(1) of the Act". The proposed variation to Clause 16.3(b) will not be included. This matter is resolved.
4. Item 28: Clause 15.5(b) re part time exclusion from 10 hour break. Following further discussion at the conference on 29 April 2016 it was agreed that the next version of the exposure draft will include the part time exclusion consistent with the current Award. This matter is resolved.
5. Item 11: Daylight saving. The matter was further discussed at 29 April conference. There was no consensus to support the ABI proposal at the conference on 29 April. The proposal is a substantive change to the current award. If ABI wish to pursue this matter further then they will need to indicate this in their reply submission and the matter will then need to be added to the outstanding matters and dealt with by a Full Bench.
6. Item 9: Clause 8.1: AiGroup will provide further details in reply submissions re Section 147 issue.
7. Item 3: If ABI wish to pursue this matter they will need to advise in their reply submission and the matter will then be a substantive matter which will need to be added to the outstanding matters and dealt with by a Full Bench.
8. Item 7: If AiGroup wish to pursue this matter they will need to advise in their reply submission and the matter will then be a substantive matter which will need to be added to the outstanding matters and dealt with by a Full Bench.
9. Schedule B: Changes were made to the schedule in response to the issues raised by the AiGroup. Although it was not discussed at the 29 April 2016 conference, the AMOD team have further considered the appropriate tables in Schedule B. We now consider that the best way to resolve the AiGroup concern about the lack of distinction in the award between day worker and shiftworker is to combine the tables for

shiftworker and day worker. Also Clause B.1.2 should include an addition that “Consistent with Clause B.1.1, all purpose allowances need to be added to the rates in the table where they are applicable”. Changes will be reflected in the next version of the exposure draft.

10. The following are the outstanding items from the 24 February 2016 summary of variations document: Item 1 re trainer classification (see above).



COMMISSIONER