



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 ors)

COMMISSIONER ROE

MELBOURNE, 21 JULY 2016

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

[1] This Report follows a conference held on 20 July 2016. The conference was conducted to further consider the outstanding matters identified in the transcript of proceedings before Justice Ross on 6 June 2016. It follows a series of earlier conferences and reports concerning these awards before me. The relevant Awards are:

- 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*
- AM2014/248 – *Telecommunications Services Award 2010*

GENERAL

1. The notice of listing for the 20 July 2016 listed the outstanding items identified in the proceedings before Justice Ross and requested parties to advise if there were any other items. No other items were identified by any party.
2. Business SA provided a written update of their position.
3. There were no outstanding issues identified in respect to the *Commercial Sales Award 2010*. The *Real Estate Industry Award 2010* issues have been referred to a separate Full Bench.
4. The item numbers referred to are the numbers in the summary of submissions documents published on the web site. Clause numbers are references to the clause numbers in the latest exposure draft.

BUSINESS EQUIPMENT AWARD 2010

1. Item 5: The issue is whether “ordinary hourly rate” or “minimum hourly rate” should be used in Clause 6.4(c)(ii). It is not contested that the leading hand all-purpose allowance does apply to casual employees. What is in contest is whether, in calculating the wage, the casual loading is applied to the minimum rate plus leading hand allowance. It was agreed that this matter should be determined by the Full Bench on the basis of the written submissions currently before it.

2. Item 6: The issue is whether in Clause 6.4(c) the expression “for the classification in which they are employed” should be used or the expression “for the work which the employee performs”. It was agreed that this matter should be determined by the Full Bench on the basis of the written submissions currently before it.
3. Item 33: The issue is whether it is necessary to include the words “in pursuance of the performance of the employees duties” in Clause 11.4(c)(ii)(C). It was agreed to vary the exposure draft to include the words as sought by AiGroup.
4. Item 46: ABI propose that the overtime Clause 16.1 should be varied to add the words “required to work” to exclude unauthorised overtime. ABI indicated in the proceedings before Justice Ross that they wished the issue to be considered further at the conference but did not wish to take the matter further than that. The proposed words have not been included as they have been seen as a significant change to current entitlements. The ABI position was supported by Business SA. ABI did not attend the conference and the matter was not pursued by others. The exposure draft will not be varied and the matter is regarded as finalised.
5. Item 57: The issue is whether or not the Summary of Hourly Rates of pay tables are sufficiently clear. The Schedule is headed “ordinary” rates and the rates in the tables are the minimum hourly rates and the notes proceeding the table specify how the ordinary hourly rates are to be derived from those rates. The AiGroup will provide a list of the affected Awards and it’s proposal to Justice Ross by the end of July 2016.

BANKING, FINANCE AND INSURANCE AWARD 2010

1. Items 18/27. The AiGroup support the use of the term “shift loading” rather than “shift penalty” in two places in this Award. Business SA support the position of AiGroup. This issue is also raised by AiGroup in respect to a number of other Awards. The AiGroup will provide a list of the affected Awards and it’s proposal to Justice Ross by the end of July 2016.

CONTRACT CALL CENTRES AWARD 2010

1. Item 5: ASU reserved their position in respect to this item at the proceedings before Justice Ross. They confirmed at the conference that they are not seeking to alter the exposure draft. The matter is resolved.
2. Item 25: CPSU propose to insert a classification for trainers in this Award and in the *Telecommunications Services Award 2010*. This matter will be listed for further conference at the end of August. CPSU and AiGroup will have further discussions prior to the conference.

TELECOMMUNICATIONS SERVICES AWARD 2010

1. Item 3: ABI propose that the overtime Clauses 6.3(b) and 15.1 should be varied to add the words “required to work” to exclude unauthorised overtime. ABI indicated in the proceedings before Justice Ross that they wished the issue to be considered further at the conference but did not wish to take the matter further than that. The proposed words have not been included as they have been seen as a significant change to current entitlements. ABI did not attend the conference and the matter was not pursued by others. The exposure draft will not be varied and the matter is regarded as finalised.

2. Item 7: The issue is whether “ordinary hourly rate” or “minimum hourly rate” should be used in Clause 6.4(b)(ii). It is not contested that the all purpose allowances apply to casual employees. What is in contest is whether, in calculating the wage, the casual loading is applied to the minimum rate plus all purpose allowances. It was agreed that this matter should be determined by the Full Bench on the basis of written submissions. CPSU requested the opportunity to respond further to the AiGroup submission. **Any party in opposition to the AiGroup proposal should make further submission by no later than 28 July 2016. The AiGroup, and any other party supporting their proposal, are provided with the opportunity to respond to any new matters raised by no later than 4 August 2016.** The matter will then be determined on the basis of the written submissions.
3. Item 22: In earlier reports the unions reserved their position on this item. They confirmed at the conference that they are not seeking to alter the exposure draft. The matter is resolved.
4. Item 26: The AiGroup support the use of the term “shift loading” rather than “shift penalty” in two places in this Award. This issue is also raised by AiGroup in respect to a number of other Awards. The AiGroup will provide a list of the affected Awards and it’s proposal to Justice Ross by the end of July 2016.
5. Item 32: The issue is whether or not the Summary of Hourly Rates of pay tables are sufficiently clear. The Schedule is headed “ordinary” rates and the rates in the tables are the minimum hourly rates and the notes proceeding the table specify how the ordinary hourly rates are to be derived from those rates. The AiGroup will provide a list of the affected Awards and it’s proposal to Justice Ross by the end of July 2016.
6. Item 34: CPSU propose to insert a classification for trainers in this Award and in the Contract Call Centres Award 2010. This matter will be listed for further conference at the end of August. CPSU and AiGroup will have further discussions prior to the conference.



COMMISSIONER