

4 yearly review of modern awards – [AM2014/223](#) – Dredging Industry Award 2010  
[\[MA000085\]](#)

**Higher duties provision (item 13 of the [further revised summary of submissions](#))**

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[1] Pre-reform awards' higher duties provisions (extracted below) consistently refer to 'An employee directed by the employer to carry out **any** duties'

[2] AWU in its [submission](#) of 18 April 2016 at paragraph 21 submitted:

'This clause entitles an employee to be paid at the higher rate where they "perform the duties of a position at a higher classification level". The current award has similar wording. We submit the alternative wording of "work" rather than "duties", to reflect that not *all* duties must be performed, but rather the work of that higher position, on that occasion. This is consistent with the wording in the three pre-reform awards mentioned above – which entitled the higher rate when "any duties carrying a higher rate" were performed. The same amendment was made to the *Asphalt Industry Award 2010* during the review of group 1A and 1B awards.'

[3] AWU's concern may be resolved by inserted of the word 'any' in place of the word 'the' in clause 10.4 as follows:

'An employee engaged to perform the any duties of a position at a higher classification level for more than two hours during any one day will be paid the rate applicable to that higher level for all work done on that day.'

[4] At paragraph [120] of Statement [\[2009\] AIRCFB 450](#) the Full Bench indicated which awards the *Dredging Industry Award 2010* proposed to replace:

'The draft Dredging Industry Award 2010 reflects some consent between interested parties comprising various unions (the MUA, AIMPE, AMOU and the AWU) and the Dredging Industry Industrial Secretariat (DIIS). The exposure draft proposes to replace three existing awards: the *Maritime Industry Dredging Award 1998*, the *Dredging Industry (AWU) Award 1998* and the *Marine Engineers (Non Propelled) Dredge Award 1998*.'

[5] Relevant extracts of the higher duties provision are set out in the table below.

**Table 1—Higher duties provision extracts**

Award	Clause	Provision
<a href="#">Exposure Draft</a> – Dredging Industry Award 2016	10.4	<p>An employee engaged to perform the duties of a position at a higher classification level for more than two hours during any one day will be paid the rate applicable to that higher level for all work done on that day.</p> <p>An employee engaged to perform the duties of a position at a higher classification level for two hours or less during one day will be paid the higher rate for the actual time worked at that higher level.</p>
<i>Dredging Industry Award 2010</i> <a href="#">[MA000085]</a>	16	<p>An employee engaged for more than two hours during one day on duties carrying a higher rate than their ordinary classification will be paid the higher rate for such day. If engaged for two hours or less during one day the employee will be paid the higher rate for the time so worked.</p>
<a href="#">AP778702</a> - <i>Dredging Industry (AWU) Award 1998</i>	19	<p><b>19.1</b> An employee directed by the employer to carry out any duties carrying a higher rate than his ordinary classification shall be paid for the time he is so engaged, but if he is so engaged as directed for more than two hours of any day or shift he shall be paid the higher rate for the whole day or shift.</p> <p><b>19.2</b> Notwithstanding anything contained in 19.1 hereof, no employee shall be entitled to a higher rate when relieving an employee for meal intervals, crib time, rest pauses, toilet relief or any other relief of a like nature.</p>
<a href="#">AP787991</a> – <i>Maritime Industry Dredging Award 1998</i>	19	<p><b>19.1</b> An employee directed by the employer to carry out any duties carrying a higher rate than his ordinary classification shall be paid at that higher rate for the time he is so engaged, but if he is so engaged as directed for more than two hours of any day or shift he shall be paid the higher rate for the whole day or shift.</p> <p><b>19.2</b> Notwithstanding anything contained in 19.1 hereof, no employee shall be entitled to a higher rate when relieving an employee for meal intervals, crib time, rest pauses, toilet</p>

Award	Clause	Provision
		relief or any other relief of a like nature.
M0141 A M Print H6076 [incorporating A-a V Print J0857] – <i>Maritime Industry Dredging Award 1988</i>	26	<p>(a) An employee directed by the employer to carry out any duties carrying a higher rate than his ordinary classification shall be paid at that higher rate for the time he is so engaged, but if he is so engaged as directed for more than two hours of any day or shift he shall be paid the higher rate for the whole day or shift.</p> <p>(b) Notwithstanding anything contained in subclause (a) hereof, no employee shall be entitled to a higher rate when relieving an employee for meal intervals, crib time, rest pauses, toilet relief or any other relief of a like nature.</p>
<a href="#">AP788027</a> - <i>Marine Engineers (Non Propelled) Dredge Award 1998</i>	19	<p><b>19.1</b> An employee directed by the employer to carry out any duties carrying a higher rate than his ordinary classification shall be paid for the time he is so engaged, but if he is so engaged as directed for more than two hours of any day or shift he shall be paid the higher rate for the whole day or shift.</p> <p><b>19.2</b> Notwithstanding anything contained in 19.1 hereof, no employee shall be entitled to a higher rate when relieving an employee for meal intervals, crib time, rest pauses, toilet relief or any other relief of a like nature.</p>
M197 A S Print H6886 – <i>Marine Engineers (Non Propelled) Dredge Award 1988</i>	32	<p>(a) An employee directed by the employer to carry out any duties carrying a higher rate than his ordinary classification shall be paid for the time he is so engaged, but if he is so engaged as directed for more than two hours of any day or shift he shall be paid the higher rate for the whole day or shift.</p> <p>(b) Notwithstanding anything contained in subclause (a) hereof, no employee shall be entitled to a higher rate when relieving an employee for meal intervals, crib time, rest pauses, toilet relief or any other relief of a like nature.</p>