



DRAFT REPORT

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards

(AM2014/253)

Aircraft Cabin Crew Award 2010

[MA000047]

DEPUTY PRESIDENT GOSTENCNIK

MELBOURNE, 20 NOVEMBER 2017

4 yearly review of modern awards – Aircraft Cabin Crew Award 2010

[1] On 9 February 2017 and 17 August 2017 I conducted two conferences with interested parties to discuss the outstanding technical and drafting issues in relation to the review of the *Aircraft Cabin Crew Award 2010*. We also reviewed the Summary of the Proposed Substantive Variations (SV Summary).

[2] I have attached two tables setting out a summary of the technical and drafting issues (TD Summary) and the SV Summary reflecting the position of the parties following the conference on 17 August 2017.

[3] There is one outstanding item in the TD Summary which needs to be resolved:

- Item 9 – Annual leave common issue

[4] All of the items in the SV Summary are outstanding and need to be resolved.

DEPUTY PRESIDENT

This table is a summary of proposed variations lodged for this award – updated 13 November 2017.

Aircraft Cabin Crew Award 2010

Some of the items contained in this summary may be determined by the Group 4 Award Stage—Technical and Drafting Full Bench while others may be referred to a separately constituted Full Bench (to be discussed at a conference before an individual Member of the Commission).

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
S1	iCCC	Sub-15May15	3	<p>Definitions Definition of ‘rostered day off’ includes reference to ‘nominated duty free periods’. Seek variation definition of ‘sign-off’ to include nominated duty free period as part of domestic, regional and international cabin crew members’ duty hour limitations provisions contained in Sched B, C and D. Proposes definition “sign off” be clarified regarding interaction between the <i>planned</i> sign off period for rostering purposes and unplanned time. See proposed definitions on page 2 of submission.</p>	Pages 1–2	
S2	iCCC	Sub-15May15	New clause	<p>Consultation and dispute resolution— proposed new penalties Proposes penalty provision for financial losses incurred from raising and resolving operational grievances. See penalty provision proposes on page 2 of submission.</p>	Page 2	

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
S3	iCCC	Sub-15May15	11	Types of Employment Proposes clarification contained in Schedules B or D for duty time calculations and allowances payable are associated with type of flying undertaken, up to and including planned/unplanned rest period.	Page 3	
S4	iCCC	Sub-15May15	17	Employee duties Proposes additional clause 17.4. Proposed clause requires an employer cannot require service of an employee to whom training arrangements apply, in performing safety or product/entertainment delivery activities until inflight training has commenced and supernumerary training sectors completed.	Page 3	
S5	iCCC	Sub-15May15	18	Classification and minimum wages Proposes "cabin crew supervisor" is included in definitions at clause 3 of Award. Proposes where cabin crew supervisor operates mix of narrow-bodied and wide-bodied aircraft that minimum weekly wage be increased to the average of cabin crew manager and cabin crew supervisor minimum weekly wages.	Page 3	
S6	iCCC	Sub-15May15	19	Allowances Propose award be varied to include reasonable travel expenses in reimbursement of fair and reasonable costs for meals whilst staying in international ports. Propose expenses calculated using the Australian Taxation Office's relevant table.	Page 3	

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
S7	iCCC	Sub-15May15	24 and B.2	<p>Ordinary hours of work and rostering Proposes that Award be varied to clarify interaction between ordinary hours of work, rostered duty hours, actual time on duty, leave credits and reasonable additional hours. Variation should explain interaction between these various clauses to enable cabin crew to understand how ordinary hours of work are calculated and recorded. Party notes that there is no roster period cycle maximum hours of work which creates uncertainty for when employee's ordinary hours of work commitment is completed and when overtime pay is applicable.</p>	Pages 3–4, 5	
S8	iCCC	Sub-15May15	Part 6	<p>Parental leave Proposes additional parental leave provisions in recognition of special requirements of cabin crew for specified medical reasons.</p>	Page 4	
S9	iCCC	Sub-15May15	Schedule A – Transition al Provisions	<p>Transitional provisions — Loadings and penalty rates Application of transitional part-time loading, Sat, Sun, evening and other penalties, and shift allowance/penalty rates unclear from 2015 onwards. Proposes Award varied to include 100% amounts or percentages for payments and application to loading and penalties (part-time loading, Sat, Sun, evening and other penalties, and shift allowance/penalty).</p>	Page 4	

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
S10	iCCC	Sub-15May15	B.1.8	Domestic flying—Allowances – Training allowance Proposes workplace inspection of Ground School trainer and Ground School Clerk and Trainer take place in 2015 to establish and award allowances commensurate with trainer roles.	Page 5	
S11	iCCC	Sub-15May15	B.1.9	Domestic flying—Allowances – Meal allowance Proposes that allowance be varied as ‘tours of duty’ is incorrectly applied in current clause.	Page 5	
S12	iCCC	Sub-15May15	B.3.3	Domestic flying—Rostering Proposes award be varied to clarify when ordinary hours of work are completed and when overtime pay is applicable.	Page 5 - 6	
S13	iCCC	Sub-15May15	B.3.6	Domestic flying—Rostering Proposed changes to B.3.6 given the lengthy planned and unplanned duty hours in industry.	Page 6	
S14	iCCC	Sub-15May15	B.6.1(b)	Domestic flying—Rostered days off Seeks clarification whether work on a rostered day off is ordinary hours of work towards roster cycle maximum or overtime. Party also seeks clarification for prescribed total number of hours representing roster cycle maximum regarding reference to reasonable additional hours. Seeks clarification on when call-in interrupts time free of duty as call- in received and flow on reassignment/consultation constitutes duty (i).	Page 6	

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
S15	iCCC	Sub-15May15	B.5	<p>Domestic flying—Duty limitations and rest periods</p> <p>Party submits review process may need to include exposure drafts to CASA for consideration on whether proposed provisions meet civil aviation fatigue management obligations.</p> <p>Party further submits review process may need to consult CASA regarding whether proposed provisions meet fatigue risk management obligations.</p> <p>Unplanned duty hour limitations above 14 hours into home base are unsafe and unreasonable duty hour limitations. Duty hour limitations should be complemented by fatigue risk management system.</p>	Page 6 - 7	
S16	iCCC	Sub-15May15	B.5.2	<p>Domestic flying—Rest periods</p> <p>Proposes home base planned rest be greater than 12 hours and sufficient rest at home base of at least 24 consecutive hours following a tour of duty comprising low body clock periods between 2am and 6am.</p> <p>Party proposes such duties be restricted from a second sector being operated beyond dawn.</p>	Page 7	

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
S17	iCCC	Sub-15May15	B.9	<p>Domestic flying—Reserve Terms “reserve” and “stand-by” have different meanings and this should be reflected in award.</p> <p>Proposes variations to clauses B.9.3, B.9.5, B.9.6 and B.9.7 to ensure that the terms are not used interchangeably.</p>	Page 8	
S18	iCCC	Sub-15May15	Schedule D	<p>International flying Proposes award be varied pending finalisation of CASA’s ruling on fatigue management.</p> <p>D.5.1(b) to be varied as: “...(standby credits do not count towards duty limitations)”</p> <p>D.5.2(b) should be varied to include additional provision for duty: “17 hours 1 min to 24 hours namely 1 hour paid reclined rest break to be assigned on the day from eight hours after sign-on [for fatigue prevention]”</p>	Page 9	

List of abbreviations

iCCC iCabin Crew Connect

REVISED SUMMARY OF SUBMISSIONS – TECHNICAL AND DRAFTING

This table is a summary of submissions on technical and drafting issues. The summary has been revised to include feedback from the hearing on 6 December 2016 ([Transcript](#)) and the Conference on 9 February 2017 ([Transcript](#)). This summary has been further revised to include submissions lodged on or before 5.00pm on 7 August 2017. The summary has been revised to include feedback from the conference on 17 August 2017 ([Transcript](#)).

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
1	Qantas	Sub-30/06/16	2	Definitions – <i>Response to question raised by Commission</i> Definition of “Cabin crew supervisor” should not be inserted. Rather, the reference to “Cabin crew supervisor” in cl.14.2 (classifications & minimum wages) should be replaced with “Cabin crew manager”.	Page 2	Agreed. See Transcript-9Feb17 [PN230]
2	Qantas	Sub-30/06/16	2	Definitions – sign-on (international cabin crew) – <i>Response to question raised by Commission</i> The reference to “at base” can refer to “at permanent base” (“home base” has same meaning).	Page 2	Agreed. See Transcript-9Feb17 [PN230]
	AIG	Reply sub-25/07/16		Does not oppose amendment proposed by Qantas.	Para 85	
3	AIG	Sub-30/06/16	11.1	Casual employment Reinstate original wording: “a casual employee is an employee engaged as such.” The absence of these words substantially alters definition.	Paras 197-201	Agreed. See Transcript-9Feb17 [PN233]
	Qantas	Reply sub-21/07/16		Does not agree with AIG submission. Supports use of phrase “engaged on a casual basis” rather than “as such”. Generally, definition of “casual	Para 3	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
				employee” should be consistent across awards.		
4	AIG	Sub-30/06/16	11.2	Casual employment Clause should not refer to the “ordinary hourly rate” (re-calculating a casual employee’s rate of pay).	Paras 202-209	Withdrawn. See Transcript-9Feb17 [PN236] <i>Note: Clause 11.2 of ED refers to “minimum hourly rate” to be paid to a casual cabin crew member, not the “ordinary hourly rate”.</i> Qantas to confer with AIG prior to hearing.
	Qantas	Reply sub – 21/07/16		Does not agree with AIG submission that clause will increase hourly rate payable to casual employees. Clause 11.2, which refers to the “minimum hourly rate”, should remain as proposed in ED.	Paras 4-7	
5	AIG	Sub-30/06/16	14.2	Minimum wages Clause should be amended to reflect that the minimum weekly rates are payable only to full-time employees. Proposal is to insert the words “(full-time employees)” directly below the words “minimum weekly wage”.	Paras 210-212	Agreed. See Transcript-9Feb17 [PN238]
6	AIG	Sub-30/06/16	Schedule A.1.7(c) and A.1.7(d)	Flying Allowance – Response to question raised by Commission Clauses are not redundant. Deletion of these clauses may have tax and superannuation implications.	Paras 213-214	Agreed. See Transcript-9Feb17 [PN239]
	Qantas	Sub-30/06/16		These clauses should remain. The “daily travelling allowance” component is treated differently from other components of the flying allowance for taxation purposes.	Page 2	
	AIG	Reply sub – 25/07/16		Agree the clauses should remain.	Para 86	

ITEM	PARTY	DOCUMENT	CLAUSE (exposure draft)	SUMMARY OF ISSUE	THEIR REFERENCE	NOTES
7	Qantas	Sub-30/06/16	Schedule A.1.8(b)	Training allowance – Response to question raised by Commission The rate referred to is based on a cabin crew member's rate.	Page 2	Agreed. See Transcript-9Feb17 [PN241]
	AIG	Sub-30/06/16		The rate referred to is based on a cabin crew member's rate.	Paras 215-216	
	AIG	Reply sub – 25/07/16		Agree with Qantas' submission.	Paras 87	
8	Qantas	Sub-30/06/16	Schedule A.3.3 and Schedule B.4.5(a)	Rostering and Changes to duties Clauses A3.3 and B4.5 should not be made subject to cl. 24 (Consultation about changes to rosters or hours of work). Condition is unnecessary and possibly confusing since exception in cl. 24.3 would likely apply.	Para 2 (page 1)	Agreed. See Transcript-9Feb17 [PN244] Item added pursuant to feedback from Qantas, see Transcript-6Dec16 [PN261-PN265]
	AIG	Reply sub – 25/07/16		Agree with QANTAS submission.	Paras 88-89 (page 19)	
9	AIG	Corr-08/12/16	27.4-27.5	Annual leave common issue QANTAS to circulate a draft to the other parties and arrange for the parties to consult and confer about issue. If agreement can't be reached, SDP proposed to list matter for further conference on 10 March 2017 at 9:30.		Awaiting further correspondence from AIG by 8 September 2017. See Transcript-17Aug17 [PN37, PN81-PN82] See Transcript-9Feb17 [PN127-247]
	QANTAS	Corr-280717		Issue remains outstanding.		
	AIG	Corr-310717		Agree with QANTAS.		

List of abbreviations (in alphabetical order)

AIG	Australian Industry Group
ED	Exposure draft
Qantas	Qantas Group