

Fair Work Commission
Terrace Tower, 80 William Street
East Sydney NSW 2011
By email: amod@fwc.gov.au

30 June 2016

Re: AM2014/254 AWU submissions on the exposure draft for the *Airline Operations – Ground Staff Award 2016*

Background

1. On 10 May 2016 the President, Justice Ross published a Statement and Directions regarding a plain language pilot and Group 4 awards.
2. The Directions require the filing of submissions regarding drafting and technical issues in Group 4A, B and C exposure drafts by 30 June 2016.
3. The AWU's submissions in relation to the exposure draft for the *Airline Operations – Ground Staff Award 2016* (Exposure Draft) as published on 2 June 2016 appear below.

Drafting and technical issues

4. Clause 2: It does not appear necessary to repeat the definition of the "Airline operations industry" in clause 2 and clause 4.2. Our preference is for the definition to only appear in clause 4.2.
5. Clause 7.2, 7.3 and 7.4: We have identified a number of issues with the categorisation of facilitative provisions in the tables contained in the Exposure Draft and suggest the following amendments:

Clause 7.2 Facilitation by individual agreement

Clause number	Provision
10.2 (b)	Part-time employment – variation to hours of part-time employment
15.2	Make-up time
23.1 (c)	Overtime – time off instead of payment for overtime
23.2 (a)	Overtime – Rest period after overtime

28.4 (b)	Public holidays – substitution of public holidays
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Clause 7.3 Facilitation by majority or individual agreement

Clause number	Provision
14.2 (f)	Ordinary hours of work – day work
15.1 (a)	Ordinary hours of work – method of arranging ordinary working hours
17.2 (b)	Shiftwork rosters – change in roster

Clause 7.4 Facilitation by majority agreement

Clause number	Provision
14.2 (c)	Ordinary hours of work – spread of hours
14.2 (d)	Rostered days off - day work
14.3 (e)	Rostered days off – shift work
15.1 (c)	Introduction of 12 hour shifts
16.1 (d)	Meal break – day work
16.2 (e)	Meal break – shiftwork
18.7 (b)	Payment of wages
28.4 (a)	Public holidays – substitution of public holidays

6. Clause 10.2 (b): The words “Subject to the employer’s rights in clause 7.4 and 15.1 to change an employee’s hours of work” do not accurately reflect the operation of these two provisions. Clause 7.4 merely lists facilitative provisions whereby agreement can be reached with a majority of employees. Clause 15.1 is concerned with setting working hours and shift times generally as opposed to varying an individual employee’s hours of work. Therefore, we propose the following amendment to the start of clause 10.2 (b):

Subject to the employer’s rights in clause 15.1, changes in hours may only be made by agreement in writing...

7. Clause 11.3: The current wording does not clearly express the intention to prescribe a minimum engagement period for each occasion a casual employee is required to attend work. We suggest the following amendment which is generally consistent with the wording in clause 14.2 of the *Manufacturing and Associated Industries and Occupations Award 2010*:

Casual employees are entitled to a minimum payment of four hours’ work at the appropriate rate on each occasion they are required to attend work.

8. Clause 12.16 (c) and (d): These provisions are effectively identical. We prefer the structure of clause 12.16 (d).

9. Clause 15.1 (a): We prefer the wording in clause 18.4 (a) of the *Airline Operations – Ground Staff Award 2010* (the Award). The re-arranged wording in the Exposure Draft has the potential to indicate the default method of setting working hours is by individual agreement which is not the intent of the clause.

In addition, the reference in clause 15.1 (a) (i) to clause 14.2 (c) should be clause 14.2 generally given all the provisions can impact upon the spread of ordinary hours for day workers.

10. Clause 17.5 and Schedule B: The heading for this sub-clause may be confusing given the entitlement prescribed relates to non- successive shifts. We suggest the heading be amended to “Non-successive afternoon and night shifts” and the same change made to the various parts of Schedule B.
11. Clause 18.5: The heading should be amended to read: “Apprentice minimum wages” because clause 18.5 (a) (i) refers to hourly rates as opposed to weekly rates.
12. Clause 18.5 (b) (i): The reference to clause 16.3 should be changed to clause 18.5 (c).
13. Clause 18.5 (b) (ii): The reference to clause 16.3 should be changed to clause 18.5 (c) and the reference to clause 15.3 changed to clause 18.3. The reference to “ordinary weekly wage rate” should be changed to “ordinary hourly rate” for consistency with clause 18.5 (a) (i).
14. Clause 18.5 (e) (i): The first dot point should refer to clause 18.5 (d) as opposed to just (d).
15. Clause 18.6 (b): In response to the question posed in the Exposure Draft, we agree the heading should be changed to “Aircraft Worker 3”.
16. Clause 18.7 (c): The reference to “full-time employees” should be changed to “permanent employees” to clarify that the entitlement to payment of wages applies equally to full-time and part-time employees.
17. Clause 19.7 (e) (i): The reference in the third dot point to “1.38% of the standard rate per week” should be changed to “\$10.56 per week”.
18. Clause 21: We submit it would be appropriate for these amounts to be increased as it appears they have not moved since 2010. Given the amounts are related to the loss of earnings capacity arising from death or serious

injury, it may be appropriate for the amounts to be increased in accordance with annual wage review decisions.

19. Clause 23.1 (b): The reference to clause 14.2 (c) should be changed to clause 14 and 15 generally given there are a range of other provisions in clause 14 and 15 that relate to the fixing of ordinary hours in an enterprise.
20. Clause 23.1: Clause 32.1 (c) of the Award has been omitted. This provision should be retained given there is scope for the averaging of hours in the Exposure Draft plus the ability for agreement to work a 40 hour week with RDOs.
21. Clause 23.1 (c): We support the inclusion of the model TOIL term developed by the Award Flexibility Full Bench.
22. Clause 25: We support the inclusion of the model terms developed by the Annual Leave Full Bench.
23. Clause 25.5 (b): This provision should be deleted given the Full Federal Court's Decision in *Centennial Northern Mining Services Pty Ltd v Construction, Forestry, Mining and Energy Union* [2015] FCAFC 100.
24. Schedule B.1.1: A reference to clause 19.9 (a) should be added because the tool allowance prescribed in that clause is also payable for all purposes.
25. Schedule B.2.4, B.3.4, B.4.4 and B.5.4: We don't agree that the rate payable for overtime by shiftworkers on Sunday is 150% for 2 hours and then 200%. We interpret clause 17.7 (a) to mean that all overtime by shiftworkers on Sunday is paid at the rate of 200%. It would be absurd for the Exposure Draft to prescribe a rate of 200% for all work by day workers on Sunday, 200% for ordinary hours by shift workers on Sunday and 200% for all overtime by continuous shiftworkers but then a lower rate for overtime by non-continuous shiftworkers on Sunday.



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