



# DRAFT REPORT

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

## 4 yearly review of modern awards

### DRY CLEANING AND LAUNDRY INDUSTRY AWARD 2010

(AM2014/264)

COMMISSIONER CIRKOVIC

MELBOURNE, 19 APRIL 2017

*4 yearly review of modern awards – Dry Cleaning and Laundry Industry Award 2010.*

[1] On Monday, 27 March 2017 a conference was held to discuss the Summary of Submissions – Technical and Drafting (the summary) in relation to the review of the *Dry Cleaning and Laundry Industry Award 2010*.

[2] The following items in the summary were discussed at the conference:

- Item 1: The proposal by the Textile Clothing & Footwear Union of Australia (TCFUA) to amend the Table of Contents and heading of Part 4 by inserting the word ‘Superannuation’ was not opposed by most parties. The necessity of the amendment was questioned by the Australian Business Industrial & NSW Business Chamber (ABI & NSWBC). ABI & NSWBC will circulate a submission to the parties regarding this matter and have the matter tabled at the next conference.
- Item 2: Agreed, as per the proposal of the Australian Workers’ Union (AWU).
- Item 3: Agreed that definition of ‘*dry cleaning and laundry industry*’ should be appear only once and only in clause 4.
- Item 4: Submission no longer pressed by the ABI & NSWBC.
- Item 5: The TCFUA continues to press the matter. A submission is to be provided and the matter is to be considered at a further conference.
- Item 6: Agreed, as per the proposal of the TCFUA.
- Item 7: The AMOD team is to clarify the sense in which the newly inserted word ‘*ordinary*’ is being used. This information is to be provided to the parties so that they may discuss it at the next conference.
- Item 8: It was identified that the same issue as that in item 7 arises. Clarification is to be provided by AMOD team.
- Item 9: The AMOD team is to research the history of clause 13.1 and the averaging provisions. Parties’ submissions in that respect will be reserved until after the information has provided been provided.
- Item 10: Agreed, as per the proposal of the TCFUA.

- Item 11: The Australian Federation of Employers and Industries (AFEI) will make submissions on clause 14.4. These submissions will be subject to discussion at the next conference.
- Item 12: Not agreed. Any further submissions are to be provided before next conference.
- Item 13: The ABI & NSWBC reserved its position on the matter. The matter is subject to further conference.
- Item 14: The AFEI submitted, and United Voice agreed, that the column headings in clauses 18.2 and 18.3 should be amended to provide payments for junior employees based on a percentage of the '*minimum weekly rate*', rather than a percentage of the '*weekly rate of pay*'. Note that the AFEI submission of 18 January 2017 suggested the headings refer to a percentage of the '*minimum adult rate*'. Parties appear to have agreed that the column headings should read '*% of minimum weekly rate of pay*'.
- Item 15: The AWU is to re-consider its position in light of the Full Bench decision [2013] FWCFB 5411.
- Item 16: The Exposure Draft (ED) is to include the note required by the Full Bench in [2015] FWCFB 4658 drawing attention to the fact that employers must separately identify any allowance in a pay record.
- Item 17: The ED is to be amended to reflect that the model 'Time off instead of payment for overtime' (TOIL) clause was inserted into the award at clause 22.2 on 14 December 2016. United Voice reserved its position noting that the model term might need to be tailored in future for this particular award and this can be dealt with at the next conference. The TCFUA noted that the reference to clause 22.3 on page 5 of TCFUA submission dated 18 January 2017 should be a reference to clause 22.2.
- Item 18: The parties are to consider the wording for clause 22.4(b) which was proposed by AWU in its submission of 20 January 2017. The AWU is open to suggestions for alternative wording, provided the wording allows the provision to apply equally to day work and shift work and clarifies that the 10 hour break is between the completion of overtime and the commencement of ordinary hours.
- Item 19: The AWU continues to press the issue. Some parties regard it as a substantive change.
- Item 20: Substantive variation.
- Item 21: The parties are to consider using wording taken from the model TOIL clause in drafting an additional provision.
- Item 22: The AWU is open to discussions regarding the amendment of the definition of '*morning shift*' for laundry workers in clause 24.1 to prescribe a finishing time. The AFEI continues to oppose this on the basis that the change would be substantive. The TCFUA supports a change and would like an opportunity to comment upon a suggestion, but is concerned that any further definitions could amount to a substantive change. The ABI & NSWBC does not agree it is unclear how the clause will operate and considers any variation to be a substantive change. The parties are to consider what change might be appropriate and once that is considered, the Commission may consider whether change is substantive.
- Item 23: All parties except for the ABI & NSWBC support the retention of clause 24.8. The ABI & NSWBC is to provide a submission on the matter.

- Item 24: All parties except for the ABI & NSWBC support having the heading of clause 35 revert back to the heading in the current award. The ABI & NSWBC is to provide a submission on the matter.
- Item 25: The parties are to consider the matter further and discuss it at the next conference.
- Item 26: The parties agreed that the TCFUA would draft a form of wording which separates out the job search entitlement in clause 37 so that there are two clauses, (as in the current award), one relating to termination of employment and one relating to redundancy. The TCFUA is to circulate a draft to parties for comment.
- Item 27: The TCFUA made the reflective comment that the note in Schedule C, although already considered by the Full Bench, may be misleading in that it may imply that the extent of an employer's obligations under the award is limited to the obligations in the schedule. The TCFUA will consider its position on this matter and decide whether or not to make a submission upon which the other parties may comment.
- Item 28: The TCFUA will draft a form of words to replace the description '*non-rotating*' in the column headings C.1.1, C.1.2 and C.2.3 (whether by referring back to the clause that the entitlement is derived from or whether by changing each heading). The proposed wording is to be circulated to parties for comment.
- Item 29: The AMOD team is to explain the method of calculation of the penalty rates in C.2.4, since the parties have arrived at different hourly rates from those appearing in the table. The AMOD team is to circulate the explanation.
- Item 30: The AMOD team is to clarify the method of calculation of wage rates for casual adult employees in C.3 (is the basis for calculation compounding or cumulative?). The parties are to then provide further submissions which can be discussed at the next conference.
- Item 31: The AWU confirmed its submission that since day workers in the laundry stream cannot work ordinary hours on the weekend under clause 14, the columns for day work ordinary hours worked on a Saturday in C.2.1 and C.2.2 should be deleted. The AWU is to write to the AMOD team clarifying its position, thereby providing clarification the parties.

[3] The matter is listed for further conference at **10am on Friday, 28 April 2017** in Sydney.

COMMISSIONER