

Fair Work Commission
Level 4, 11 Exhibition Street
Melbourne, Vic, 3000
Via email: AMOD@fwc.gov.au

20 January 2017

Re: AM2014/279 *Pest Control Industry Award 2010*

BACKGROUND

1. These submissions of the Australian Workers' Union (AWU) are made pursuant to the Amended Directions of Justice Ross issued on 21 December 2016 in AM2014/250 and others.
2. Parties are directed to file submissions on drafting and technical issues in the exposure drafts for Group 4D, 4E and 4F awards. The submissions that follow refer to the exposure draft for the *Pest Control Industry Award 2010* ('the Exposure Draft') as published on 03 November 2016.

DRAFTING AND TECHNICAL ISSUES

3. **Clause 17.3 (c)(iv):** In response to the question posed by the Commission, we submit that the allowance of \$8.45 is payable for meals associated with any travel provided the employee is performing 'country work'. That is, if the employee is travelling to a country work location, or between country work locations, the meal allowance is paid for each meal. If the travel is *between* country work locations, the allowance of \$8.45 is paid in addition to the allowance of \$90.44 as set out at subclause (i).
4. **Clause 21:** The Commission seeks clarification as to when an employee is paid overtime as a day worker versus when an employee is a shiftworker. We submit that the answer lies in the ongoing engagement of the employee on afternoon or night shift, that is, they are employed as a shiftworker. If the employee is a day

worker, and works outside the ordinary hours set out under the Award, then overtime is paid on those hours.

5. This clause would clearly benefit from further terms defining shiftwork. The *Pest Control Industry (State) Award* (AN120413) provides some guidance at clause 2(c) which states:

Shift Rosters: The general starting and finishing times for each shift shall be determined by the employer.

Such times once determined shall not be altered except by agreement between the employer and employee concerned. Provided that where no such agreement is entered into the employer shall give a minimum of one week's notice of intention to vary the roster.

6. **Clause 22.3:** In response to the questions posed by the Commission, we submit:

6.1. There is no industry allowance in this Award. The reference to 'industry' at clause 22.3(b) should read 'leading hand'. This is consistent with the pre-modern award where annual leave loading was payable on the leading hand allowance.¹

6.2. The loading under **Clause 22.3(b)** is calculated at (17.5% of the minimum rate) + leading hand allowance + the first aid allowance; or, if the employee was a shiftworker prior to entering leave and their shift penalty is higher than 17.5%, the calculation is (shiftwork% of the minimum rate) + leading hand allowance + first aid allowance.

7. **D.3 Coverage:** In response to the question posed by the Commission, the AWU is not aware of any other training program that we consider should not be covered by this Schedule.
8. **D.7 Allocation of Traineeships to Wage Levels:** In response to the question posed by the Commission, the AWU has reviewed the lists and understands they are complete and up-to-date.

¹ See clause 9 (e) of the *Pest Control Industry State Award* (AN120413).

Yours faithfully,

A handwritten signature in black ink, appearing to be 'ZD', with a long horizontal flourish extending to the right.

Zachary Duncalfe

NATIONAL LEGAL OFFICER

The Australian Workers' Union