



STATEMENT

Fair Work (Transitional Provisions and Consequential Amendments) Act 2009
Sch. 5, Item 6 - Review of all modern awards (other than modern enterprise and State PS awards) after first 2 years

Master Builders Australia Limited and others (AM2012/48 and others)

SENIOR DEPUTY PRESIDENT WATSON

MELBOURNE, 22 MARCH 2013

Award modernisation review.

[1] On 5 March 2013, the Construction, Forestry, Mining and Energy Union (CFMEU) corresponded with Senior Deputy President Watson providing a “CFMEU, AWU, AMWU, CEPU, HIA and MBA Combined Proposal re Changes to the Definitions Clause and Other Related Provisions” (combined proposal) intended to dispose of various proposed applications which deal with the concept of ordinary hours/reference rates under the *Building and Construction General On-site Award 2010* (the Award).

[2] That correspondence has been posted on the Fair Work Commission’s web-site in the 2012 Review section dealing with the Award.

[3] A statement of 7 March 2013 [[2013] FWC 1415] advised of a hearing on Thursday, 21 March 2013 in order to provide an opportunity for interested parties to make submissions on the combined proposal and other matters.

[4] On 15 March 2013, the Australian Industry Group sent correspondence which has been posted on the Fair Work Commission’s web-site, supporting the combined proposal, save for one matter. Specifically, it indicated that the word “time” has been omitted in the last sentence of the proposed clause 34.2(n), as underlined below:

“34.2(n) Permanent night shift

An employee who (except at their own request pursuant to clause 34.2(b)(i)):

- (i) during a period of engagement on shift, works night shift only; or
- (ii) remains on a night shift for a longer period than four successive weeks; or
- (iii) works on a night shift which does not rotate or alternate with another shift or with day work so as to give the employee at least one third of their working time off night shift in each cycle;

must, during such engagement, period or cycle be paid their ordinary time hourly rate plus 30% for all time worked during ordinary working hours on such night shift.”

[5] No other written submissions or correspondence was received in relation to the combined proposal.

[6] At the hearing on 21 March 2013 no interested party opposed the combined proposal. No opposition was expressed against the amendment as suggested by the Australian Industry Group.

[7] Interested parties are now provided with an opportunity to put written submissions in relation to the amendment as suggested by the Australian Industry Group. Such submissions, if any, should be made, in writing, by 3.00 p.m. on Thursday, 28 March 2013.

SENIOR DEPUTY PRESIDENT