

Submissions of the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)

AM2014/203

4 yearly review of modern awards–Award stage–Group 2 awards

Graphic Arts and Printing and Publishing Award 2010

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Background

1. On 24 December 2018 the Fair Work Commission (Commission) issued a report in the 4-yearly review of the modern awards (December report).¹ The December report dealt the outcome of a conference held with the parties, the Australian Manufacturing Workers Union (AMWU) and the Australian Industry group (Ai Group).
2. The report directed the parties to file short submissions on:
 - a) the wording of the definition for “ordinary hourly rate”;
 - b) the wording of “overtime hourly rate”;
 - c) the proposed deletion of clause 21.3 of the exposure draft; and
 - d) The AMWU’s proposed insertion of the “casual ordinary rate”
3. On 29 January 2019 the parties sought an extension for a report back as discussions were ongoing. An extension was granted to 8th February 2019.
4. These short submissions will address the issues set out in paragraph 2 above and the outcome of discussions between the parties.

Ordinary hourly rate and overtime hourly rate

5. The parties have come to agreement that the words “**in clause 8.2**” be replaced with the words “**under this award**” for the definition of the ordinary hourly rate. The agreed definition proposed is as follows:

“ordinary hourly rate means the hourly rate of the employees classification prescribed by the award, plus any allowances specified as being included in the employees’ ordinary hourly rate or payable for all purposes.”
6. As stated in the 26 September 2018 Decision (September Decision)² which dealt with the issue of the ordinary hourly rate at [93], the proposed definition of ordinary hourly rate will replace all instances of the phrase “hourly rate” in the exposure draft.
7. At the conference the parties agreed to the wording of the “overtime hourly rate” as proposed by Ai Group in their submissions dated 10 December 2018.

Clause 21.3 of the exposure draft

8. As noted in the December Report the AMWU opposed the removal of clause 21.3(c) of the exposure draft.³ The clause currently states as follows:

“the shift allowance is part of the employee’s weekly wage for the purpose of the calculating the overtime rate payable in the accordance with this award. “
9. This clause enlivens the entitlement of employees to the shift allowance in calculating overtime. Whilst the definition of “overtime hourly rate” does confirm what constitutes an overtime hourly rate for a shift worker, it cannot act as a substitute to the operative provisions in the Award.

¹ [Report 24 December 2018](#)

² [\[2018\] FWCFB 5968](#)

³ Ibid at [6]

10. The AMWU submits that the clause 21.3 in the exposure draft be replaced as follows:

“During overtime the rate payable is calculated on the ordinary hourly rate prescribed by this award.”

11. This preserves the entitlement as it currently operates. It also makes clear the entitlement that arises and how it operates for the purposes of calculating overtime.

12. If the Commission is not minded to adopt the AMWU’s suggested clause, the clause should remain as is so to not disturb the operation of the entitlement.

Casual ordinary rate

13. The AWWU no longer presses for the inclusion of a definition for casual ordinary hourly rate. This is because the term “casual ordinary rate” does not appear in the exposure draft and would be superfluous.

END

