

From: Simon Miller [mailto:Simon.Miller@afap.org.au]
Sent: Thursday, 30 June 2016 3:59 PM
To: Chambers - Ross J
Cc: AMOD; Simon Lutton; Joanne Janes; Andrew Molnar; Cate Larkins
Subject: 4 Yearly Review of Modern Awards - Submission by the Australian Federation of Air Pilots on the Air Pilots Award 2010 and Application to Vary Award

Dear Justice Ross,

Pursuant to Direction 1 of Your Honour's Amended Directions ([2016] FWC 2924) in the matter of the 4 Yearly Review of Modern Awards – Group 4 Awards (AM 2014/250 and others), please find attached the submission from the Australian Federation of Air Pilots on the *Air Pilots Award 2010* and Form 46: Application to Vary the Award (February 2016).

We would appreciate your confirmation of receipt of our submission and the attachment.

Thank you for your assistance.

Yours sincerely,

Simon Miller
Industrial Advisor



AUSTRALIAN FEDERATION OF AIR PILOTS
LEVEL 4, 132-136 ALBERT ROAD
SOUTH MELBOURNE, VIC 3205
T 03 9928 5737 F 03 9699 8199

WWW.AFAP.ORG.AU

Foundation Member of IFALPA



30 June 2016

Justice Iain Ross
President, Fair Work Commission
Melbourne Registry
Level 4, 11 Exhibition Street
MELBOURNE VIC 3001

By email: chambers.ross.j@fwc.gov.au

Cc: amod@fwc.gov.au

Dear Justice Ross,

4 Yearly Review of Modern Awards - Air Pilots Award 2010 and Application to Vary Award

(a) Review of the Air Pilots' Award 2010

We refer to your Amended Directions concerning the 4 Yearly Review of Modern Awards, dated 10 May 2016.

In particular, we note that the provision under Direction 1 for interested parties to file in the Commission comprehensive written submissions on the technical and drafting issues related to exposure drafts in sub-group 4B by Thursday the 30th of June 2016.

Noting that the Air Pilots Award 2010 ("**Award**") falls within sub-group 4B, and our interest as an organisation representing those employed in the profession of pilot in civil aviation, we now provide our submission on the exposure draft of this Award.

(i) Responses to Comment Boxes in Exposure Draft

Our submission identifies and responds to comments boxes in the Exposure Draft which invite responses from individual parties, and notes the relevant page of the Exposure Draft.

(a) *Clause 2. Definitions - Definition of "Duty Time" (page 4)*

Parties are asked to consider whether the term "duty time" should be defined. The pre-reform Pilots' (General Aviation) Award 1998 (AP792332) defined duty time as:

Duty time means all time on duty in accordance with the CAOs and this award.

The AFAP submits that the definition of "duty time" should be as provided under the pre-reform Pilots' (General Aviation) Award 1998 (AP7922332).

(b) *Clause 8. Types of Employment – Duration of Probation Period (page 10)*

Parties are asked whether the last sentence of clause 8.2 regarding probation should be deleted.

You will note that the last sentence of clause 8.2 reads as follows:

The employer will also advise the pilot about the duration of any probation period, which will not be greater than 6 months.

The AFAP submits that the last sentence of clause 8.2 should remain.

(c) *Clause 9. Casual Employment – Definition of the Terms “Flying Hour” and “Flight Time” (page 10)*

Parties are asked to consider whether the terms “flying hour” and “flight time” should be defined.

The AFAP submits that it is unnecessary to define the term “flying hour”.

Regarding “flight time”, we submit that the term should be defined as under clause 3.19 of the pre-reform *Pilots’ (General Aviation) Award 1998*, specifically:

3.19 Flight time means time on duty as a crew member in an aircraft and is calculated from chock to chock.

(d) *Schedule B – Classifications, Minimum Salaries and Additions to Salaries: Regional Airlines, Clause B.1– Minimum Salaries (page 39)*

Parties are asked whether the reference to “Beechcraf 55” in the table below should be “Beechcraft 55”.

The AFAP submits that the reference should be to “Beechcraft 55”.

(e) *Schedule C – Sector Specific Conditions – Aerial Application Operations, Clause C.6 – Personal leave (page 47)*

Parties are asked to clarify the operation of clause C.6.3, in particular, whether the clause is consistent with the NES.

You will note that clause C.6.3 reads as follows:

Personal leave will be available to a maximum of 26 weeks in any one continuous absence.

In our view, the clause is inconsistent with the NES, which does not stipulate a maximum period for the availability of personal leave for a continuous period.

(f) *Schedule F.3.1 - Adjustment of expense related allowances (page 72)*

Should the applicable consumer price index figure for the pilots daily travelling allowance in clause D.6.6(c)(i) be included in the table in clause F.3.1(b)?

In our view the applicable consumer price index figure for the pilots daily travelling allowance in clause D.6.6(c)(i) should be included.

(ii) Corrections

(a) *Clause 9.5(b)- Minimum payments (page 10)*

The AFAP submits that the clause 9.5(b) contains a referencing error:

(b) Where actual flight time exceeds the minimum shift payments detailed in clause 9.5, payment is to be calculated for each flying hour or part thereof.

The reference to clause 9.5 above should read 9.5(a).

(b) *Schedule A.1.6 First Officer/Second Pilot (page 36)*

The AFAP submits that clause A.1.6 contains a referencing error:

A First Officer/Second Pilot will be paid the relevant instrument rating under clause A.1.4 where applicable and in addition 65% of the amounts specified in clauses A.1.3 (a), (b) or (c).

The reference to clause A.1.3 (a), (b) or (c) should read A.1.3 (a), (c) or (d).

(c) *Schedule E – Summary of Hourly Rate of Pay*

E 2.2 .Casual Regional Airline Employees

The AFAP submits that the wage rates provided in Schedule E.2.2 (pages 63-64) for casual regional airline employees are, but for the Group 2 Captain rate, incorrect, and should be amended as follows:

	<i>Current rates as stated on pages 63-64</i>	<i>Rates the AFAP submits should be applied</i>
	Per Flying Hour – 1/800th of annual rate + 25% loading	Per Flying Hour – 1/800th of annual rate + 25% loading
Group 1 - Captain	Cessna 206, Cessna 207 and Cessna 210 - \$62.18	Cessna 206, Cessna 207 and Cessna 210 - \$70.81
Group 2 - Captain	Aero Commander 500; Beechcraft 55; Beecherall 58; Britten Norman BN2; Cessna 310; Cessna 337; Cessna 402; Cessna 414; Partenavia P68; Piper PA23; Piper PA30; Piper PA31; Piper PA34 and Piper PA60 Aerostar - \$78.46	Aero Commander 500; Beechcraft 55; Beecherall 58; Britten Norman BN2; Cessna 310; Cessna 337; Cessna 402; Cessna 414; Partenavia P68; Piper PA23; Piper PA30; Piper PA31; Piper PA34 and Piper PA60 Aerostar - \$78.46
Group 3 - Captain	Beecherall 65; Cessna 404 and Cessna 421 - \$75.28	Beecherall 65; Cessna 404 and Cessna 421 - \$81.13
Group 4 - Captain	Cessna 441; Nomad N22 and Nomad N24 - \$72.39	Cessna 441; Nomad N22 and Nomad N24 - \$86.88
Group 5 - Captain	Beechcraft 200; Swearingen 226; Swearingen 227; De Havilland 6-100; De Havilland 6-200; De Havilland 6-300; Casa 212 and Embraer 110 - \$75.28	Beechcraft 200; Swearingen 226; Swearingen 227; De Havilland 6-100; De Havilland 6-200; De Havilland 6-300; Casa 212 and Embraer 110 - \$98.55
Group 5 – Co-pilot	Beechcraft 200; Swearingen 226; Swearingen 227; De Havilland 6-100; De Havilland 6-200; De Havilland 6-300; Casa 212 and Embraer 110 - \$58.76	Beechcraft 200; Swearingen 226; Swearingen 227; De Havilland 6-100; De Havilland 6-200; De Havilland 6-300; Casa 212 and Embraer 110 - \$71.36

Group 6 - Captain	Jetstream 31; Beach 1900 and Metro 23 - \$79.40	Jetstream 31; Beach 1900 and Metro 23 - \$101.22
Group 6 – Co-pilot	Jetstream 31; Beach 1900 and Metro 23 - \$61.28	Jetstream 31; Beach 1900 and Metro 23 - \$72.24
Group 7 – Captain	Cessna 550; McDonnell Douglas; DC 3; Shorts SD-330; Shorts SD-360 and Mohawk - \$85.41	Cessna 550; McDonnell Douglas; DC 3; Shorts SD-330; Shorts SD-360 and Mohawk - \$105.24
Group 7 – Co-pilot	Cessna 550; McDonnell Douglas; DC 3; Shorts SD-330; Shorts SD-360 and Mohawk - \$65.09	Cessna 550; McDonnell Douglas; DC 3; Shorts SD-330; Shorts SD-360 and Mohawk - \$73.42
Group 8 – Captain	Saab-Fairchild and 340 A - \$91.80	Saab-Fairchild and 340 A - \$112.35
Group 8 – Co-pilot	Saab-Fairchild and 340 A - \$69.30	Saab-Fairchild and 340 A - \$77.00
Group 9 – Captain	De Havilland; and Dash 8-102, 200 and 300 - \$100.04	De Havilland; and Dash 8-102, 200 and 300 - \$121.29
Group 9 – Co-pilot	De Havilland; and Dash 8-102, 200 and 300 - \$74.34	De Havilland; and Dash 8-102, 200 and 300 - \$81.57
Dash 8-400 - Captain	\$107.03	\$129.61
Dash 8-400 – Co-Pilot	\$78.34	\$87.11

Schedules E. and F – Inclusion of Casual Wage Rates

The AFAP also submits that the tables reflecting casual rates of pay expressed per flying hour as set out in Schedule E should also include references to the amounts below, reflecting the wage-related allowances set out in Schedule F for casual pilots in General Aviation, expressed on an hourly basis:

(a) Additions to minimum salary as set out in Schedule A.1.3:

- i. Piston engine aircraft (A.1.3(a)) – commuter operations - \$2.19 per hour.
- ii. Senior Commercial Pilots' Licence/Airline Transport Pilots' Licence (excluding Fokker-28 pilots) (A.1.3(b)) - \$7.22 per hour.
- iii. Turbo-prop aircraft allowance (excluding Fokker-28 pilots) (A.1.3(c)) - \$9.53 per hour.
- iv. Turbo-jet aircraft allowance (excluding Fokker-28 pilots) (A.1.3(d)) - \$15.30 per hour.

(b) Additional allowances for pilots required to carry out flying using an instrument rating (Schedule A.1.4)

- i. Command or Class 1 (732%) - \$8.75 per hour.
- ii. Co-pilot or Class 2 (476%) - \$5.69 per hour.
- iii. Night VFR or Class 4 (183%) - \$2.19 per hour.

(c) Additions to the minimum salary for flight instruction (Schedule A.1.7)

Single engine (Schedule A.1.7(a)(i))

- i. Grade III single engine charter
- ii. Grade II multi engine charter - \$4.99 per hour.
- iii. Grade I single engine charter - \$9.97 per hour.

Multi engine (Schedule A.1.7(a)(ii))

- i. Grade III single engine charter
- ii. Grade II multi engine charter - \$4.99 per hour.
- iii. Grade I single engine charter - \$9.97 per hour.

(d) Additions to the minimum salary for flight instruction using the privileges of an instrument rating (Schedule A.1.8)

Instrument flying rating

- i. Command or Class 1 - \$8.75
- ii. Co-pilot or Class 2 - \$5.69

iii. Night VFR or Class 4 - \$2.19

E.2.4 Casual off-shore adult helicopter operations employees

The AFAP submits that the reference to “*Twin over 9000 l*” on page 65 of the exposure draft should read “*Twin over 9000 lbs*”

(b) Application to Vary the Air Pilots’ Award 2010

Please find attached the application by the AFAP dated February 2016 seeking variations to the Award.

We would appreciate your advice on the process and timeframe involved in the determination of this application, in particular when the application will be heard by the Fair Work Commission.

Please contact Simon Miller at smiller@afap.org.au or on (03) 9928 5737 or should you have any queries or wish to discuss these matters further.

Yours sincerely,



Joanne Janes
Operations Manager

Enc.

Form F46 Application to vary a modern award

Fair Work Act 2009, ss.157-160

FAIR WORK COMMISSION

Commission use only

Commission Matter No.:

Applicant

Name:	Australian Federation of Air Pilots		
Address:	Level 4 132-136 Albert Road		
Suburb:	South Melbourne	State: VIC	Postcode: 3205
If the Applicant is a company or organisation:			
Contact person:	Cate Larkins	ABN:	
Contact details for the Applicant or contact person (if one is specified):			
Telephone:	03 9928 5787	Mobile:	0421546773
Fax:	03 9699 8199	Email:	cate@afap.org.au

1. What is the name of the modern award to which the application relates?

Air Pilots Award 2010
Award ID: MA000046

2. What is the industry of the employer?

Airline Industry

3. Variation(s) sought:

Variation 1

3.1 The Applicant seeks the addition of an Embraer 135 and 145 rate of pay under the wage schedule at Schedule B, B.1.2 of the *Air Pilots Award 2010*, entitled **Larger aircraft classifications and minimum entitlements**.

3.2 The addition sought is:

	Captain	First Officer
"Embraer 135/145	110,086	72,972"

Variation 2

3.3 Schedule C, C.1.1 of the *Air Pilots Award 2010* includes a wage schedule per aircraft type for regional airlines. The applicant asserts that this schedule should be expanded to ensure that pilots who fly larger aircraft types not listed at clause C.1.1 are appropriately covered by the *Air Pilots Award 2010*.

3.4 The addition sought is:

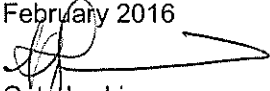
"Pilots employed by regional airlines operating an aircraft type not listed in C.1.1 will be paid the minimum salary and additions to minimum salary provided for in Schedule B – Classifications, Minimum Salaries and Additions to Salaries - Airlines/General Aviation"

3.5 Alternatively, as the Commission prefers, the list of aircraft types at C.1.1 can be expanded so as to more accurately reflect the breadth of aircraft type presently flown within the regional airlines sector of Australian aviation i.e. in order to include larger jet aircrafts types presently flown in regional aviation such as the Embraer 135, Embraer 145, Fokker 50, Fokker 70 and Fokker 100 types.

4. Grounds:

4.1 To ensure the *Air Pilots Award 2010* provides the appropriate minimum salary rate for pilots operating the Embraer 135 and 145, the applicant contends that B.1.2 should be expanded to include the Embraer 135 and 145. The applicant can lead expert evidence that the Embraer 135 and 145 are similar in size, weight and complexity of operation to the CRJ-50 already provided for at B.1.2.

4.2 To ensure the *Air Pilots Award 2010* captures pilots employed by a regional airline who are trained to fly larger jet aircraft, but for whom there is no classification at C.1.1, the applicant contends that C.1.1 should be expanded to include the salary rates provided to airline and general aviation pilots as provided in Schedule B.

Date:	February 2016
Signature:	
Name:	Cate Larkins
Capacity/Position:	Industrial and Legal Officer

Service requirements

The Applicant must seek directions from the Commission as to service of this application.