

From: Richard Krajewski [<mailto:richard.krajewski@fpaa.com.au>]

Sent: Wednesday, 15 March 2017 7:45 AM

To: Chambers - Hatcher VP

Subject: Plumbing and Fire Sprinklers Award - Construction Awards proceedings 17th March 2017

Associate to Vice President Hatcher,

Dear Associate,

Please find attached two documents with respect to proceedings set down for Friday 17th March 2017 before his Honour in connection with the four yearly review of Construction Awards pursuant to s. 156 of the Fair Work Act 2009 . The first attachment is a letter noting the set down date of those proceedings as well as a proposal for an alternate date(s) with respect to the Plumbing and Fire Sprinklers Award. The second attachment is a submission summarising the position put by Fire Protection Association Australia on 18th July 2016 with respect to the definition of "Redundancy" as contained in the Plumbing and Fire Sprinklers Award.

Should there be a need for clarification, please do not hesitate to contact me.

Regards

Richard Krajewski

Workplace Relations Manager

Fire Protection Association Australia

15th March 2017

Deputy President Gostencnik
Fair Work Commission
80 William Street,
MELBOURNE, NSW

Four yearly review of modern awards
s.156 – 4 yearly review of modern awards
Plumbing and Fire Sprinklers Award 2010 – AM2016/23
Draft Programme – Construction Awards

Dear Vice President,

On 8th March 2017, parties to the Construction awards were reminded of the mention/directions hearing before his Honour which is scheduled for 17th March 2017. It appears that a proposal from interested parties associated with the **Plumbing and Fire Sprinkler Award (the "Award")** have proposed alternative dates of 5th and 6th April to deal with matters associated with the **Plumbing and Fire Sprinklers Award**. Fire Protection Association Australia is not opposed to that proposition.

Fire Protection Association Australia also refers to its submission lodged on 18th July 2016 with respect to the definition of "Redundancy" as currently defined in the Award.

Yours sincerely



Richard Krajewski

Workplace Relations Manager

Fire Protection Association Australia

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FAIR WORK ACT 2009 (Cth)

s. 156 – Four Yearly Review of Modern Awards

EXPOSURE AWARDS: Construction Awards (AM2016/23)

PLUMBING and FIRE SPRINKLERS AWARD 2016 (MA000036) – Clause 18 – Industry Specific Redundancy Scheme

SUBMISSION in REPLY

1. On 18th July 2016, Fire Protection Association Australia (FPA) lodged a submission with respect to Clause 18 – Redundancy, of the *Plumbing and Fire Sprinklers Award 2010* (MA000036). More specifically, that submission related to sub-clause 18.2 and was limited to the definition of “redundancy”. That position is maintained.
2. That submission sought to focus on a more clear definition of “Redundancy”.
3. The submission also referred to the *Fair Work Act 2009* (Cth) with respect to industry-specific redundancy schemes (s. 141) as well as the broader definition of “redundancy” at sections 119 and 123.
4. While acknowledging past decisions, the submission nevertheless referred to the different circumstances of sprinkler fitters to that of other employees engaged in the building and construction industry.
5. Reference was made to the different categories of worker under the *Plumbing and Fire Sprinklers Award 2010*: daily hire, weekly hire and casual employees. It is noted that neither the *Plumbing and Fire Sprinklers Award 2010* nor its predecessor Award (*Sprinkler Pipe Fitters’ Award 1998* (AP796603CRV)) refer to or provide for any reference to “daily workers”. The importance of this lies in the nature of work patterns engaged in by other building and construction workers.
6. The peculiarities of the building and construction industry, with respect to employment types, should not be translated to apply to sprinkler fitters when their work patterns to that of other workers engaged in the building and construction industry.

CONCLUSION

7. As submitted in its July 2016 submission, FPA recognises that industries have distinctive features as well as important historical and functional aspects that cannot be ignored.
 8. However, where circumstances differ even within such specific industries, the differences need to be recognised.
 9. The generic definition of “redundancy” does not include “resignation”. The specific nature of the building and construction industry, however, does recognise the type of employment systems in place. That a system of daily hire does not apply to such a group of employees and daily hire being a key form of employment which marks the building and construction industry as significantly different, demonstrates that for this group and form of employment, resignation should not be a criteria or element when a redundancy situation affecting sprinkler fitters, arises.
 10. As indicated in its earlier submission, Fire Protection Association Australia respectfully proposes the following draft provision: “18.2 **Definition:** For the purposes of this clause, **redundancy** means a situation where an employee (not including resignation by employees employed on weekly hire) ceases to be employed by an employer other than for reasons, of misconduct or refusal of duty. **Redundant** has a corresponding meaning”.
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