

IN THE FAIR WORK COMMISSION

Section 156 - 4 Yearly Review of Modern Awards

(AM2019/17)

AWARD STAGE

FINALISATION OF EXPOSURE DRAFTS – TRANCHE 3

Timber Industry Award 2010

(Revised Exposure Draft and Draft Determination published 8 May 2020)

Full Bench Decision [2020] FWCFB 2124 (27 April 2020)

Statement [2020] FWC 2591 (18 May 2020)

**SUBMISSION OF THE
CONSTRUCTION, FORESTRY, MARITIME, MINING & ENERGY UNION
(MANUFACTURING DIVISION)**

(1 June 2020)

CFMEU – Manufacturing Division	Contact Person: Vivienne Wiles Senior National Industrial Officer	Address: 165 Bouverie Street, Carlton VIC, 3053	Tel: Email:	0419 334 102 vwiles@cfmeumd.org industriamd@cfmeu.org.au
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BACKGROUND

1. On 27 April 2020, the Fair Work Commission (FWC) issued a Decision [2020] FWCFB 2124¹ in matter (AM2019/17) in relation to the finalisation of exposure drafts for Tranche 3 modern awards ("*April 2020 Decision*").
2. The Construction, Forestry, Maritime, Mining and Energy Union – Manufacturing Division ("CFMMEU-MD") has an interest in the following modern awards in tranche 3:
 - Textile, Clothing, Footwear and Associated Industries Award 2010 ("TCF Award"); and
 - Timber Industry Award 2010 ("Timber Award").
3. These submissions relate only to the Timber Award.

TIMBER AWARD

4. The relevant sections of the *April 2020 Decision* relating specifically to the Timber Award are contained at paragraphs [437] to [513].²
5. On 8 May 2020, the Commission published a further Revised Exposure Draft³ and Draft Determination⁴ for the Timber Award, arising from the *April 2020 Decision*.
6. On 18 May 2020, the Commission published a Statement [2020] FWC 2591⁵ in relation to the future process regarding the finalisation of the Exposure Draft ("*May 2020 Statement*"). The *May 2020 Statement*, inter alia, provided:

¹ 4 yearly review of modern awards; (AM2019/17) – Finalisation of exposure drafts – tranche 3 awards; Decision [2020] FWCFB 2124 (27 April 2020)

² Ibid, at [437] – [513]

³ Revised Exposure Draft – Timber Industry Award 2020 (8 May 2020)

⁴ Draft Determination – Timber Industry Award 2010 (8 May 2020)

⁵ 4 yearly review of modern awards; (AM2019/17) – Timber Industry Award 2010, [2020] FWC 2591, Bissett C (18 May 2020)

[3] The parties are requested to provide in writing any issues that arise from the revised Exposure Draft they wish to have considered to chambers.bissett.c@fwc.gov.au by 4:00pm Monday 1 June 2020.

[4] A conference of the interested parties will be convened on 2:00pm Thursday 4 June 2020 to seek to finalise any outstanding matters.

ISSUES IDENTIFIED BY THE CFMMEU-MD

7. In its review of the *April 2020 Decision*, the Revised Exposure Draft and Draft Determination for the Timber Award, the CFMMEU-MD has identified 2 issues.

Clause 16 (Classifications)

8. Clause 16 (Classifications) of the Revised Exposure Draft states:

The definitions of the classification levels in clause 20-Minimum, are contained in Schedule A-Classification Definitions – General Timber Stream, Schedule B-Classification Definitions -Wood and Timber Furniture Stream and Schedule C-Classification Definitions-Pulp and Paper Stream. [emphasis added]

9. The CFMMEU-MD submits that there is an error in clause 16, in that the word ‘Rates’ should be included after the word ‘Minimum’ in the first line above. The same error is made in the Revised Draft Determination.⁶

10. This error was previously identified by the CFMMEU-MD in relation to the previous Exposure Draft and addressed by the Full Bench in the *April 2020 Decision* at paragraphs [452] – [454].

⁶ Draft Determination – Timber Industry Award 2010 (8 May 2020) at clause 16 (page 27)

Clause 20.4(a) (Adult apprentices in the Wood and Timber Furniture Stream)

11. Clause 20.4(a) of the Revised Exposure Draft includes a table at 20.4(a)(ii). The second column of the table has a heading, amended to read, '*% of level 5 minimum weekly rate*'. The identical words are used in clause 20.4(a)(ii) of the Revised Draft Determination.⁷
12. The CFMMEU-MD submits that the expression '*% of level 5 minimum weekly rate*' does not accurately reflect the Full Bench's decision in the April 2020 Decision – see paragraphs [469] – [473]. The Full Bench determined that the amendment to the heading in the table at clause 20.4(a)(ii) reflect 'that in the current modern award'. That formulation is '*% of Level 5 minimum weekly wage*'.⁸ [emphasis added]
13. The CFMMEU-MD can indicate its intention to participate in the Conference before Commissioner Bissett listed for 2.00pm, 4 June 2020.

Filed on behalf of:

**Construction Forestry Maritime Mining and Energy Union
(Manufacturing Division)**

Vivienne Wiles
Senior National Industrial Officer and Co-ordinator
(1 June 2020)

⁷ Draft Determination – Timber Industry Award 2010 (8 May 2020) at clause 20.4(a)(ii) (page 35)

⁸ [2020] FWCFB 2124 at [472] – [473]