

**From:** Guy Noble [<mailto:guy@etuaustralia.org.au>]

**Sent:** Wednesday, 8 March 2017 12:05 PM

**To:** Chambers - Gostencnik DP

**Cc:** Richard Krajewski; Gordon Jervis; Jason O'Dwyer; Cameron Young

**Subject:** AM2014/265 Electrical, Electronic and Communications Contracting Exposure Draft

Dear Deputy President

Please find enclosed the CEPU's response to the FPAA, AiG, MEA & NECA's submissions and amendments in relation to Clause 13 and Schedule B of the Electrical, Electronic and Communications Contracting Exposure Draft.

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8 March 2017

**Four yearly review of modern awards**  
**Electrical, Electronic and Communications**  
**Contracting Award 2010 – AM2014/265**

Dear Deputy President

1. On Thursday, 2 March 2017, the CEPU participated in the meeting with the FPAA, NECA and the MEA following the Conference you chaired with respect to this matter on Tuesday 28th February 2017. The FPAA wrote to you on 3 March outlining the position of the parties in attendance at that meeting and their response to the positions put forward of AiG and ABL. Attached to the FPAA's correspondence was a draft order in respect of clause 13 in the exposure draft. The CEPU endorses the views expressed by the FPAA in their correspondence of 3 March 2017 and supports the draft order.
2. NECA also wrote to you on 3 March 2017 commenting on MEA's submission in respect of Schedule B should it be included in the final version of the Electrical, Electronic and Communications Contracting Award 2010 (the Award). AiG wrote to your chambers yesterday expressing support for MEA's primary position to remove Schedule B from the Award. Along with the other parties, it also the CEPU's primary position that the proposed Schedule B, not be included.
3. Commenting on Schedule B in the exposure draft, AiG supported MEA's proposal to include 'Day Workers' and remove the text 'Other than shiftworkers' where it appears in the Schedule as did NECA. The CEPU also supports the proposal.
4. The MEA also sought the inclusion of a note at B.2.1 and B.2.2, B.3.1, B.3.2, B.4.1, B.4.2, B.4.3, B.4.4, B.4.5, B.4.6, B.4.7, B.4.8, B.4.9, B.4.10, B.4.11 and B.4.12, in the following terms: "These amounts do not include the allowances in clause 17.2 (b), clause 17.2 (c), clause 17.2 (d), clause 17.2 (e), and clause 17.2 (f)". The AiG have objected to this inclusion, stating that "B.1.1 and B.1.2 clearly indicate the need for any reader to check the Award as to the additional allowances which may be payable."
5. NECA supports the inclusion of the MEA's proposed note and suggests modifying the note to add the types of allowances covered by 17.2(b) through to (f) in the following manner,



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"Electrician's Licence allowance" after "17.2(b)", "Leading hands allowance" after "17.2(c)", "Nominee allowance" after "17.2(d)", "Electrical distribution line maintenance and tree clearing allowance" after "17.2(e)", and "Rate for ordering materials" after "17.2(f)".

6. In the alternative NECA recommends inserting an additional clause B.1.3 along the lines of "An employee's ordinary hourly rate also includes any of the following allowances that apply to the employee:  

Electricians licence allowance, Leading hands allowance, Nominee allowance, Electrical distribution line maintenance and tree clearing allowance and rate for ordering materials"
7. AiG opposes this, arguing that their inclusion, 'has the risk of all-purpose allowances which may only be paid to a certain classification, being applied to all employees.'
8. The CEPU's view is that B.1.1 and B.1.2 may indeed direct the reader to check for additional allowances, but that there is merit in what the MEA and NECA are advocating and that the AiG is overstating any risk in the quote in the paragraph above.
9. From a drafting perspective, the CEPU is more attracted to NECA's alternative proposal.
10. In respect of NECA's submissions in respect of the public holiday column at Schedule B.2.2 and the 'Day' column in B.3.2 we support those submissions for the reasons NECA expresses.
11. In respect of AiG's correspondence dated 7 March 2017 at paragraphs 7 through to 12 the CEPU makes the observation that the AiG is correct in its contentions, although it is our understanding that in practice payments are made at the rates contained in the tables in Schedule B. The CEPU is currently seeking feedback from its branches as to the most appropriate manner in which to address the disjunction between the Award and common practice. We note that there has not been any instance of a disagreement over payment for work on a public holiday of which we are aware.
12. The CEPU supports the retention of the public holidays columns as noted by AiG for any table that deals with payment on a public holiday for overtime purposes, namely B.2.2, B4.2, B.4.6 and B.4.10.

Yours sincerely



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