

Australian Industry Group

# 4 YEARLY REVIEW OF MODERN AWARDS

4 Yearly Review of Modern  
Awards – Education Group  
AM2015/6

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GROUP

**4 YEARLY REVIEW OF MODERN AWARDS  
EDUCATION GROUP  
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**REPLY SUBMISSIONS**

**COVERAGE OF MEDICAL RESEARCH INSTITUTES UNDER THE  
PROFESSIONAL EMPLOYEES AWARD 2010**

1. Ai Group makes these submissions in relation to the application by the Association of Professional Engineers, Scientists and Managers Australia (**APESMA**) and the Association of Australian Medical Research Institutes (**AAMRI**) to vary the *Professional Employees Award 2010* (**PEA**) to explicitly cover medical research institutes and professional medical research employees.
2. The application by APESMA and AAMRI is part of the four yearly review of modern awards under s.156 of the *Fair Work Act* (FW Act). Accordingly, the Fair Work Commission's Preliminary Issues Decision<sup>1</sup> and Part 2-3 of the FW Act are relevant to the Commission's decision in this matter.
3. Ai Group is the major employer organisation representing employers covered by the PEA. Ai Group was the main employer association involved in the development of the PEA during the Australian Industrial Relations Commission's Award Modernisation process, and in the development of the major pre-modern awards that were replaced by the PEA.
4. A large number of Ai Group members employ professional engineers, professional scientists (including in the health sector), and professional employees in the information technology, telecommunications and quality auditing industries, covered by the PEA.

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<sup>1</sup> [2014] FWCFB 1788

5. In principle, Ai Group does not oppose medical research institutes and their medical research employees being covered by the PEA, provided that the relevant award provisions are appropriate and do not disturb key principles inherent in the PEA, which flowed from the relevant major pre-modern awards. These principles reflect consent positions achieved between Ai Group and APESMA over many years.
6. No doubt many employees of medical research institutes are already covered by the PEA, that is, those employees with certain professional science qualifications.
7. Ai Group has some concern with the wording of the application in so far as the application:
  - departs from some key principles in the PEA regarding the professional qualifications required of employees;
  - has the potential to disturb the coverage terms of other modern awards and/or the current award-free employment arrangements for some employees.

### **Professional qualifications required by the PEA**

8. A longstanding principle in the PEA is that employees covered by the awards are required to have relevant and appropriate professional qualifications, as specified in the award.
9. The different occupational streams in the award, such as engineering, science, information technology, telecommunications and quality auditing, provide detailed definitions of the type of professional employee covered by the award.
10. A key criterion in the award is that the employee holds a relevant professional qualification recognised by a specified professional body as entitling the employee to professional membership of the body.

11. An employee with the relevant professional qualification (as defined in clause 3) must also be performing duties defined and described in the Classification Structure and Definitions Schedule.
12. Ai Group is concerned that the proposed clause 3.7 in the application, including the reference to required qualifications in the definition of *Experienced medical research employee* and *Graduate medical research employee*, are inconsistent with the principles reflected in the current award. The application, as currently drafted, waters down key existing principles in the award and could lead to flow-on claims by a wide range of other professionals.
13. The reference to qualifications of “*PhD, Masters and university degree*” are generic references to tertiary based qualifications that do not align with the specific discipline(s) of study required for medical research.
14. The definitions would apply to many qualifications that are not recognised by the relevant professional body or bodies. The definitions would apply to a very wide range of Australian and overseas qualifications.
15. In contrast, the existing streams in the award provide for a two-tiered threshold as set out in clause 3; namely that:
  - The employee possess a relevant tertiary qualification in the field or discipline to which the occupational stream relates; and
  - The employee is eligible for professional membership of a specified professional body that recognises the qualification held.

### **Coverage definitions**

16. A further concern is the lack of precision in the definition of *medical research institute* in the application. The definition refers to “participation” in the medical research industry (as defined). The term “*participating in*” is extremely broad and could cover employers who may have a medical research department but who operate in other industries.

17. This is further compounded because the required activities forming part of the definition are based on the activities of the participant, and not necessarily the employer. Arguably a participant could include an employee.
18. The phrase “*participating in*” can be contrasted with the phrase “*principally engaged in*”, as used to define the PEA’s industry coverage of information technology and telecommunications employers.
19. Further, within the definition of *medical research institute*, the exclusions given to organisations operating for the primary purpose of the provision of health services are too narrow.
20. For the reasons outlined above, Ai Group is not in a position to support the application in its current form.
21. However, Ai Group is prepared to discuss these matters with APESMA and MRI with a view to endeavouring to reach agreement on an acceptable form of variation which does not undermine the existing carefully crafted provisions of the PEA.