



DRAFT REPORT

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards

(AM2017/49)

FAST FOOD INDUSTRY AWARD 2010

[MA000003]

COMMISSIONER LEE

MELBOURNE, 14 DECEMBER 2017

4 yearly review of modern awards – Fast Food Industry Award 2010.

[1] On 1 December 2017 a conference was held to discuss the Summary of Proposed Substantive Variations (the summary) in relation to the review of the *Fast Food Industry Award 2010*. The transcript of the conference proceedings has been made available to parties.

[2] The following items in the summary document were discussed at the conference:

- Item S9A: AIG have modified position to allow for considering the quantum of the allowance to be reduced rather than removed completely. Further discussions are to take place between AIG and the SDA to see if an agreement can be reached. SDA maintain their position that there should be no change to the allowance, however are prepared to discuss the issue. Parties to report back by 22 December 2017.
- Item S12: SDA indicated that this claim would no longer be pressed if there was agreement to their proposed additional clause 25.5 which reads as follows:

“Maximum days per week

Ordinary hours will be worked on not more than five days in each week, provided that if ordinary hours are worked on six days in one week, ordinary hours in the following week will be worked on no more than four days.”

Employer parties advised they agree to SDA proposal and on that basis, SDA withdraw the claim.

- Item S14: SDA claim withdrawn.
- Item S16: The claimed ambiguity in the application of evening penalty rate was discussed. Reference was made to the variation made as part of the Penalty Rates Decision [[2017] FWCFB 1001]. AIG indicated that notwithstanding this claim, they are prepared to discuss dealing with the issue through a facilitative provision. Parties

were to have further discussions and AIG are to provide draft wording by 22 December 2017. The SDA sent correspondence to the Commission dated 13 December 2017 submitting that this matter was fully considered by the Penalty Rates Full Bench and that it strongly objects to the Commission hearing this matter again as part of the 4 yearly review of modern awards.

- Item S19: It is agreed that the words “within the span of hours” should be deleted from clause 25.5(a)(i).
- Item S20: It is agreed that this concern can be resolved by substituting the word ‘ordinary’ for ‘all’ in each of the clauses 25.5(b)(i)-(ii) and 25.5(c)(i)- (iii) and 25.5(d). Note: the word ‘all’ appears twice in each paragraph and each would be replaced.
- Item S23: AIG claim withdrawn.
- Item S27: SDA claim withdrawn.

[3] In relation to all agreed variations the Full Bench will consider if it supports approval of same.

[4] An updated version of the summary document reflecting the position of parties has been published 14 December 2017. Any comments on the accuracy of the draft report and the updated summary document are to be filed with the Fair Work Commission by no later than **5:00pm on Friday 22 December 2017.**

[5] The matter will be listed for further conference at **9.30am Thursday, 18 January 2018.**

COMMISSIONER

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