



REPORT

Fair Work Act 2009
s.156—4 yearly review of modern awards

4 yearly review of modern awards—*Mining Industry Award 2010* (AM2019/17)

JUSTICE ROSS, PRESIDENT

SYDNEY, 28 NOVEMBER 2019

[1] In a decision issued on 24 October 2019 (*the October 2019 Decision*)¹ the *Mining Industry Award 2010* (the Mining Award) was identified as an award in which casual overtime rates are contested. The Full Bench decided to delay issuing a variation determination in respect of the award and a conference of interested parties was held on Tuesday 26 November 2019, to discuss how to proceed. A transcript of the conference is [here](#).

[2] A [Background Paper](#) published on 25 November 2019 set out some background information about the contested casual overtime issue in the Mining Award.

[3] During the course of the conference Ai Group (and ABI) acknowledged that the contested issue had been determined in a Decision on 28 June 2018² and on that basis did not continue to press the position that casual employees are not entitled to the casual loading while working overtime.

[4] The AWU sought to have the schedule of rates in the exposure draft varied to set out the overtime rates for casuals. No other party opposed this course.

[5] It was generally agreed that the Commission would prepare a schedule of casual overtime rates for inclusion in the exposure draft (and the related variation determination) and provide interested parties with 7 days to comment. A proposed schedule is set out at Attachment 1. Interested parties will have until **4pm on Friday 6 December 2019** to file any comments in relation to the proposed schedule. Comments are to be sent to AMOD@fwc.gov.au. In the event that no objections are received the Commission will amend the draft variation determination and publish it in final form.

¹ [\[2019\] FWCFB 7173](#)

² [\[2018\] FWCFB 3802](#) at [252]-[253].



PRESIDENT

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ATTACHMENT 1

B.2.4 Casual employees—other than continuous shiftworkers—overtime

	Monday to Saturday noon		Saturday after 12 noon & Sunday	Public holiday
	First 3 hours	After 3 hours		
% of ordinary hourly rate ¹				
	150%	200%	200%	250%
	\$	\$	\$	\$
Entry level	39.47	52.62	52.62	65.78
Level 1	41.34	55.12	55.12	68.90
Level 2	42.89	57.18	57.18	71.48
Level 3	44.15	58.86	58.86	73.58
Level 4	47.00	62.66	62.66	78.33
Level 5	49.94	66.58	66.58	83.23
Level 6	52.29	69.72	69.72	87.15
Level 7	54.36	72.48	72.48	90.60

¹**Casual ordinary hourly rate** includes the casual loading and industry allowance payable to all employees for all purposes. Any additional all-purpose allowances applicable need to be added to these rates.

B.2.5 Casual employees—continuous shiftworkers—overtime

	Monday to Sunday
	% of ordinary hourly rate ¹
	200%
	\$
Entry level	52.62
Level 1	55.12
Level 2	57.18
Level 3	58.86
Level 4	62.66
Level 5	66.58
Level 6	69.72
Level 7	72.48

¹**Casual ordinary hourly rate** includes the casual loading and industry allowance payable to all employees for all purposes. Any additional all-purpose allowances applicable need to be added to these rates.

