

FAIR WORK COMMISSION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

(AM2014/47)

Common Issues – Annual Leave

SUBMISSIONS OF THE MARITIME UNION OF AUSTRALIA

1. These submissions are filed on behalf of the Maritime Union of Australia (**MUA**) in accordance with the Directions of President Ross dated 20 June 2016.
2. The MUA has an interest in the maritime awards under consideration in these proceedings:
 - *Dredging Industry Award 2010*
 - *Marine Towing Award 2010*
 - *Maritime Offshore Oil and Gas Award 2010*
 - *Ports, Harbours and Enclosed Water Vessels Award 2010*
 - *Professional Diving Industry (Industrial) Award 2010*
 - *Seagoing Industry Award 2010*

(Maritime Awards).
3. These proceedings in AM2014/47 are a rarity in that the main union and employer groups generally agree that the annual leave model terms should not be inserted into the Maritime Awards.
4. Furthermore, there is consensus between the unions and the employers that the parties would benefit from further conferral regarding the impact that the model terms would have on maritime industry employees should the Commission be of the view that the Maritime Awards must be amended to insert the model terms.
5. The MUA has reviewed the submissions of AMMA dated 17 July 2015 and 26 October 2015 and is in general agreement with the position put by AMMA in relation to the Maritime Awards, in particular:
 - a. the existing leave provisions in the:
 - i. *Maritime Offshore Oil and Gas Award 2010* (cl.19);
 - ii. *Marine Towing Award 2010* (cl.23);

- iii. *Seagoing Industry Award 2010* (Part A cl.20, Part B cl.30); and
- iv. *Ports, Harbours and enclosed Water Vessels Award 2010* (cl.22)

are unique to the maritime industry while at the same time supplement the *National Employment Standards (NES)* under the *Fair Work Act 2009 (FW Act)*.

- b. The *Maritime Offshore Oil and Gas Award 2010* contains a unique “*leave factor*” provision (cl.19) which in addition to providing a paid annual leave entitlement of 5 weeks per year, provides additional entitlements to the following other forms of leave:
 - i. Leave with pay for weekends and public holidays worked;
 - ii. Personal/carers leave;
 - iii. Compassionate leave; and
 - iv. Time spent traveling in off duty time.
 - c. The *Professional Diving Industry (Industrial) Award 2010* contains a leave accrual provision (Cl.22.1 *Rostering-offshore divers*) in which non-casual employees receive a paid off-duty leave day for each on-duty day worked.
 - d. While the annual leave provision in the *Dredging Industry Award 2010* simply defers to the NES, the nature of the work under this award being typically maritime is obviated by allowance provisions relating to living on board vessels (cl.15.1 *Victualling and accommodation allowances*) and travelling (cl.15.3 *Travelling-local*; cl.15.4 *Travelling-other than local*; and cl.15.13 *Vessels proceeding from port to port*).
6. The MUA submits that the insertion of the model clauses into the Maritime Awards, in circumstances where the above maritime industry specific leave, leave related or work pattern related provisions already exist in the Maritime Awards, would be contrary to the modern awards objective, in particular s.134(d), (f) and (g) of the FW Act.

29 June 2016

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