

Fair Work Commission
Level 10, Terrace Tower, 80 William Street
EAST SYDNEY NSW 2011
Via email: AMOD@fwc.gov.au

3 May 2018

Re: AM2014/247 Sugar Industry Award 2010

BACKGROUND

1. On 6 April 2018, Deputy President Asbury published Directions requiring parties to file any updates to the parties' consensus positions as outlined in the document filed by the Australian Workers' Union ('**AWU**') on 5 April 2018.
2. This submission of the AWU responds to that direction.

PARTIES

3. The AWU confirms that the following parties have taken part in the most recent discussions regarding the outstanding issues in the *Sugar Industry Award 2010*:
 - 3.1. The AWU;
 - 3.2. The Australian Manufacturing Workers' Union ('**AMWU**');
 - 3.3. The Electrical Trades Union ('**ETU**');
 - 3.4. The National Farmers' Federation ('**NFF**');
 - 3.5. The Australian Sugar Milling Council ('**ASMC**'); and
 - 3.6. Queensland Sugar Limited ('**QSL**').
4. The parties wish to inform the Fair Work Commission of the following updates.

UPDATED POSITIONS

Item 6 – Coverage and Definition Clause Inconsistencies

5. This matter remains agreed on the terms in the document filed by the AWU on 5 April 2018.

Item 11 – Facilitative Provisions

6. This matter remains agreed on the terms in the document filed by the AWU on 5 April 2018, with the following corrections (in red) to the clause numbers.

Clause	Provision	Agreement between an employer and:
7.4(g)	Casual Conversion	An individual
7.4(j)	Casual conversion—period of employment	An individual or the majority of employees
11.2(d)(iv) and 11.3(e)(iv)	Rostered days off—substitution of days	An individual
11.2(d)(v) and 11.3(e)(v)	Rostered days off—banking of days	An individual
11.3(a)	Averaging of weekly ordinary hours – exceeds 28 days	The majority of employees
11.3(c)	Altering spread of hours	An individual or the majority of employees
12.1(d)	Rest breaks	The majority of employees
12.4(d)	Rest breaks	The majority of employees
19.1(c)	Payment of wages—frequency	The majority of employees
25.6	Time off instead of payment for overtime	An individual
25.7	Make-up time	An individual
26.1(b)	Averaging of weekly ordinary hours – shiftworkers – exceeds 28 days	The majority of employees
26.9(a)	Nominal crushing season – shiftwork – hours of work	The majority of employees
26.10(a)	Nominal slack season – shiftwork – reducing length of shift	The majority of employees
26.10(d)	Rostered day off	Unclear – but likely the majority of employees.

26.10(f)	Nominal slack season - shiftwork - Rostered days off - banking of days	The majority of employees
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Item 13 – Seasonal Employment

- 7. The parties have reached in principle agreement for this item as per the proposal below.
- 8. Insert clause 7.6 – Seasonal Employment:

“7.6 Seasonal Employment

(a) A seasonal employee is an employee engaged by the employer on a full-time or part-time basis, on or about the commencement of the crushing season, for the purpose of performing duties directly and indirectly related to crushing season operations and whose duties are completed and employment terminated on or about the end of the mill’s crushing season.”

- 9. Replace the current definition of ‘seasonal employee’ in clause 2 with the following:

“seasonal employee means an employee specifically engaged as a seasonal employee in accordance with clause 7.6. In addition, an employee who is not specifically engaged as a seasonal employee but is engaged after the first Monday in June in any one year and before the first Monday in June in the subsequent year will, for the purpose of a 38 hour week only, be deemed to be seasonal until the first Monday of June in that subsequent year.”

Items 17 & 34 - Piecework

- 10. These items still require arbitration.

Item 42 – Apprentice Tool Allowance

- 11. This item still requires arbitration.

Item 47 – Hot Work Allowance

12. The element of this matter pertaining to what allowances are not payable in addition to the hot work allowance remains agreed on the terms in the document filed by the AWU on 5 April 2018.
13. Additionally, the AWU makes the following proposal to amend the exclusion in clause 16.1(t)(iv) for the purposes of clarity.

“(iv) This allowance will be instead of any other provision relating to hot work, unpleasant conditions, confined spaces repair work or dirty work, ~~provided that the rates for or wet work, hot or noxious gas fumes confined space and repair work in this award will not be paid in addition.~~”

14. The AWU proposes the above amendment on the basis of the following:
 - 14.1. There is no reason why ‘confined space’ and ‘repair work’ should appear in the clause twice;
 - 14.2. There is no allowance in the *Sugar Industry Award 2010* for hot or noxious gas fumes; and
 - 14.3. The proposed amendment to the clause does not have any substantive effect on the provision.
15. This proposed amendment is still the subject of discussion between the parties and does **not** currently represent a consensus position.

Item 50 – Schedule D.2

16. This matter remains agreed on the terms in the document filed by the AWU on 5 April 2018.

Item 62 – Schedule D

17. The NFF has withdrawn this item.

Items 63 to 64C – Schedule D

18. Since filing the consensus document on 5 April 2018, the AWU has had discussions with the relevant industry body, QSL, regarding outstanding items related to bulk terminals employees – 63 to 64C.

19. QSL supports the terms in the document filed by the AWU on 5 April 2018 for items 63 to 64C.

Yours faithfully,

A handwritten signature in black ink, appearing to be 'ZD', with a long horizontal flourish extending to the right.

Zachary Duncalfe
NATIONAL LEGAL OFFICER
The Australian Workers' Union