

Four-Yearly Review of Modern Awards

AM2014/254: Airline Operations – Ground Staff Award

Submissions of the Australian Licenced Aircraft Engineers Association in response to [2018] FWCFB 1548

Introduction

1. The Australian Licenced Aircraft Engineer's Association ("ALAEA") makes the following submissions in the matter of AM2014/254 – *Review of the Airline Operations – Ground Staff Award 2010* in response to the Group 4 technical and drafting decision [2018] FWCFB 1548.
2. The ALAEA's submissions are made in relation to the parts of [2018] FWCFB 1548 which relate to the *Airline Operations - Ground Staff Award*. The Full Bench has invited further opportunity to comment on matters addressed by the decision and whether the parties intend to pursue outstanding substantive matters.

[95]-[99] Ordinary hours of work

3. The ALAEA agrees with the change proposed by the Full Bench at [98].
4. Further, the ALAEA understands that the AMWU has submitted that the same reference should also be inserted in clause 14.3 (ordinary hours of shiftworkers). The ALAEA supports that submission.

[108]-[110] Overtime

5. The ALAEA is willing to agree with Qantas' proposed variation as set out at [109] of the decision and agrees with the provisional view of the Full Bench that the change more accurately reflects the scope of clauses to be considered when arranging hours of work.

Item 48 – Overtime Rates for Shiftworkers On Sunday

6. The ALAEA notes that this item has been referred to the list of substantive outstanding items and was not addressed in [2018] FWCFB 1548. Consistent with the views of other unions involved the ALAEA respectfully does not agree that this is a substantive issue. The ALAEA submits that this matter can, and should, be dealt with as part of the technical and drafting process.
7. This is so because:

[1] In the current exposure draft inconsistent rates of pay are provided for work performed on Sundays. The entitlement as provided for in the exposure draft (at 17.5) is that any shiftworkers receive double time for "work" on Sundays.

- [2] However the tables in Schedule B of the Exposure Draft that deal with penalty rates for shiftworkers delineate between continuous and non-continuous shiftworkers. The tables specify that non-continuous shiftworkers working overtime on Sunday are entitled to 150% for the first two hours and then double time thereafter. According to the tables continuous shiftworkers are entitled to double time for all overtime hours.
 - [3] This constitutes an inconsistency and a diminution of the entitlement. All shiftworkers (whether continuous or non-continuous) are currently entitled, as per clause 17.5, to receive double time for work performed on Sundays. However the tables in schedule B specifies a reduced entitlement in relation to the first two hours of overtime performed by non-continuous shiftworkers on Sundays.
 - [4] Therefore there is an inconsistency between a substantive entitlement and what is provided for in the wage tables.
 - [5] The ALAEA submits that the decision to insert wage rate tables was not intended to make changes to any substantive award entitlements.
 - [6] It would appear these has likely been an error with the drafting of the tables which has created an inconsistency. It is also contrary to reason that a shiftworker working ordinary hours on a Sunday is entitled to double time whereas the same worker performing overtime hours on a Sunday is entitled to a lesser amount. This would also not accord with the Modern Awards Objective to provide "*additional remuneration for employees working overtime*"¹.
 - [7] Therefore the ALAEA submits this is a technical and drafting issue and consequently should be dealt with as part of this process.
8. The ALAEA submits that the tables in schedule B should be updated so that they accurately reflect that a shiftworker working overtime on Sunday is entitled to be paid 200% for all hours.

[111]-[113] – Overtime pay for casuals

9. The ALAEA previously made a submission that the Airline Operations Ground Staff Award is not ambiguous in this respect and the ALAEA understands this issue has been referred to a Full Bench in AM2017/51 and intends to participate in those proceedings.

Substantive Matters

Classifications

10. Following discussions the ALAEA and AMWU have reached a consent position with Qantas with respect to ALAEA item S2 and the ALAEA no longer intends to pursue its proposed substantive variation relating to technical and supervisory classifications.

¹ S 134(1)(da)(i)

11. A copy of the Agreement reached with Qantas is attached to these submissions and marked "ALAEA1".

Allowances

12. In relation to item S3 the ALAEA does not propose to pursue the substantive variation originally proposed.

Overtime for Shiftworkers

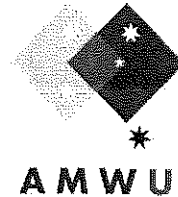
13. As referred to above the ALAEA submits the issue of the correct Sunday rate for shiftworkers can and should be dealt with via the technical and drafting process.
14. The ALAEA also seeks to highlight a separate but related issue in that, in the Part 10A Award Modernisation proceedings, the entitlement for shiftworkers working overtime was diminished.
15. In the relevant pre-reform awards² "shiftworkers" were to be paid 200% of the ordinary rate for all overtime worked.
16. During the award modernisation process the word "continuous" was added to the relevant clauses to only entitle shiftworkers 200% of the ordinary rate for any overtime if they are "continuous shiftworkers".
17. It is unclear on what basis, or for what purpose, this change was made or whether the change and its effect were contemplated by the parties. The ALAEA is not aware of any reasoning in the decisions making the Modern Award which goes to the purpose of the change or its effects.
18. The ALAEA submits that the entitlement should be restored for all shiftworkers in the Modern Award to reflect the entitlement that existed in all of the relevant pre-reform awards. This would be achieved by deleting the word "continuous" in the current exposure draft so that the current overtime clause reads:

23.1 Payment for working overtime

(a) For a continuous shiftworker the rate for working overtime is 200% of the ordinary hourly rate.

² *Aircraft Engineers – General Aviation Award, Airline Operations - Transport Workers Award, Airline Operations - Clerical and Administrative Award,*

ALAEA I



16 January 2018
Ms Justine Oldmeadow
10 Bourke Road
Mascot NSW 2020

By email: Justine.oldmeadow@me.com; kathy.srdanovic@ashurst.com;
CC: Ruchi.bhatt@aigroup.com.au; jcooney@asu.asn.au

Dear Ms Oldmeadow,

RE: Airline Operations - Ground Staff Award 2010

We refer to the letter from Ashurst Australia dated 06 November 2017.

In the letter it is confirmed that it is the position of Qantas Group that:

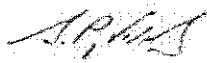
1. The majority of employees who were covered by the now terminated *Airline Operations – Technical Salaried Staff – Qantas Airways Limited Award 2005 [AP839984]* and the *Airline Operations – AMWU Technical and Supervisory Staff – Qantas Airways Limited – Award 1999* can be covered by the *Manufacturing and Associated Industries and Occupations Award 2010 [MA000010]*.
2. To the extent necessary, any issue about modern award coverage for one or more of the classifications in a proposed enterprise agreement (or for other purposes) can be resolved at the appropriate time.

We agree with these terms and can confirm in response, by this joint letter, that the AMWU and ALAEA no longer press claims currently on foot to vary the *Airline Operations - Ground Staff Award 2010* in relation to technical staff classifications.

This will be formalised once the terms of agreement as outlined in paragraphs 1 and 2 (above) are read into the transcript, with copies of this exchange of letters delivered to the Fair Work Commission.

Yours in unity,


GLENN THOMPSON
ASSISTANT NATIONAL SECRETARY


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Federal Secretary
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