



The Australian Industry Group
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Australia
ABN 76 369 958 788

7 March 2017

Deputy President Gostencnik
Fair Work Commission
80 William Street,
MELBOURNE, NSW

Dear Deputy President,

We refer to your Honours directions of the 28th February 2017. We respond herein to the Master Electrician Australia (MEA) submission provided to us on the 26th February 2017 and to the National Electrical and Communications Association (NECA) proposed amendments dated 3 March 2017.

Ai Group has no objection to the MEA's primary submission for Schedule B to be removed completely. With regards to the MEA's alternate submission our position is as follows.

1. Ai Group agrees with the MEA's position as set out in their submission as follows:
 - a. Schedule B.2.1 Paragraph 1
 - b. Schedule B.2.2, Paragraph 5
 - c. Schedule B.3.1 Paragraph 1
 - d. Schedule B.3.2. Paragraphs 12 & 13
 - e. Schedule B.4.1 Paragraph 3
 - f. Schedule B.4.2 Paragraph 7
 - g. Schedule B.4.3 Paragraph 10
 - h. Schedule B.4.5 Paragraph 13
 - i. Schedule B.4.6 Paragraph 17
 - j. Schedule B.4.7 Paragraph 20
 - k. Schedule B.4.9 Paragraph 23
 - l. Schedule B.4.10 Paragraph 27
 - m. Schedule B.4.11 Paragraph 30
2. Ai Group does not agree with the MEA's insertion of their proposed notations to the tables in the Schedules.
3. Clause B.1.1 of the schedule clearly outlines what is included in determining the Ordinary Hourly Rate in the various tables in the Schedule. Clause B.1.2 highlights the need to contemplate the allowances that are required to form the all-purpose rate and where to find them in Award, namely clause 17.2. Significantly, the notation in the tables clearly outlines what additional payments have been included in calculations or what other circumstances need to be contemplated.

4. The MEA's proposal is to provide a notation for allowances which are not included. When read with the rest of table, this is likely to add confusion. Clause B.1.2 clearly identifies that additional allowances may be payable which are not included in the tables. The MEA inclusions are unnecessary.
5. The tables in the Schedules are not intended to replicate every element of the Award and properly should not be used as a substitute for reading and applying the Award terms.
6. For the reasons set out above, Ai Group does not agree with the MEA's submissions in relation to
 - a. Schedule B.2.1 Paragraph 3
 - b. Schedule B.2.2, Paragraph 7
 - c. Schedule B.2.3 Paragraph 8
 - d. Schedule B.2.4 Paragraph 9
 - e. Schedule B.3.1 Paragraph 10
 - f. Schedule B.3.2. Paragraphs 14
 - g. Schedule B.4.1 Paragraph 5
 - h. Schedule B.4.2 Paragraph 9
 - i. Schedule B.4.3 Paragraph 11
 - j. Schedule B.4.4. Paragraph 12
 - k. Schedule B.4.5 Paragraph 15
 - l. Schedule B.4.6 Paragraph 19
 - m. Schedule B.4.7 Paragraph 21
 - n. Schedule B.4.8 Paragraph 22
 - o. Schedule B.4.9 Paragraph 25
 - p. Schedule B.4.10 Paragraph 29
 - q. Schedule B.4.11 Paragraph 31
 - r. Schedule B.4.12. Paragraph 32
7. Ai Group opposes the MEA's remaining submissions relating to the Public Holiday columns and renaming of the titles in the various tables to reflect their retention or deletion.
8. The Exposure Draft does not provide for the payment of penalties to non-shift workers on a public holiday whilst working ordinary hours. Clause 19.4 of the Exposure draft provides for public holiday payments of 250% whilst the non-shift worker works overtime.
9. Clause 13.15 of the Exposure Draft provides for shift workers to receive the public holiday penalties when working ordinary hours.



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10. These provisions replicate those in clauses 24, 26 and 31 of the Current Award and clauses 20, 22 and 25 of the National Electrical, Electronic and Communications Contracting Industry Award 1998.
11. The MEA's submissions and proposed amendments contradicts the provisions in the Exposure Draft. Therefore, the result of the MEA's submissions is for the Schedule to reflect an overpayment of public holiday penalties for non-shift workers working ordinary hours and for an underpayment when they work overtime.
12. For the reasons stated above, Ai Group opposes the MEA's submissions in relation to:
 - a. Schedule B.2.1 Paragraphs 2 and 4
 - b. Schedule B.2.2, Paragraph 6
 - c. Schedule B.3.1 Paragraphs 2 and 11
 - d. Schedule B.4.1 Paragraphs 4 and 6
 - e. Schedule B.4.2 Paragraph 8
 - f. Schedule B.4.3 Paragraph 11
 - g. Schedule B.4.5 Paragraphs 14 and 16
 - h. Schedule B.4.6 Paragraph 18
 - i. Schedule B.4.9 Paragraphs 24 and 26
 - j. Schedule B.4.10 Paragraph 28

With regards to the NECA's proposed amendments our position is as follows:

13. We do not agree with their proposition that the reliance on the tables would lead to underpayment. As submitted, Clause B.1 .1 and B.1.2 clearly indicate the need for any reader to check the Award as to the additional allowances which may be payable.
14. We refer to Paragraph 3 of NECA's proposed amendments and do not agree with the proposed new Clause B.1.3. This has the risk of all-purpose allowances which may only be paid to a certain classification, being applied to all employees.
15. Ai Group notes that the issues raised by both NECA and the MEA, in relation to reminding employers and employees as to the all purposes allowances which are required to be paid is adequately addressed by the clause B.1.2.



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16. With respect to paragraph 4 of the NECA amendments, we agree that the public holiday column in Schedule B. 2.2. is retained. This is because the column reflects the relevant provision of clause 19.4 of the Award.
17. With respect to paragraph 5 of the NECA amendments, we do not agree with the retention of the column marked “day” at B.3.2 as set out in our submissions filed in this matter on the 8th July 2016.

We otherwise refer to our submissions filed in this matter on the 8th July 2016 (paragraphs 110 to 127) and Ai Group’s draft determination filed on the 14th February 2017. Subject to our agreement to the MEA amendments to the Schedules in paragraph 3 herein, we submit that the Ai Group draft determination be adopted.

Yours Sincerely

A handwritten signature in black ink that reads 'P. Vasuki'.

Vasuki Paul
National Manager – Construction Utilities and Resources