

Fair Work Commission
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22 February 2017

Re: AM2014/283 AWU reply submissions on drafting and technical issues in the Exposure Draft for the *Registered and Licensed Clubs Award 2010*

Background

1. On 21 December 2016 the President, Justice Ross published Amended Directions directing parties to file submissions in reply to drafting and technical issues raised in Group 4 exposure drafts by 22 February 2017.
2. The following parties filed submissions on drafting and technical issues found in the Exposure Draft for the *Registered and Licensed Clubs Award 2010* ('the Exposure Draft') as published on 22 November 2016:
 - Australian Workers' Union (**AWU**)¹
 - United Voice (**UV**)²
 - Club Managers Association Australia (**CMAA**)³
 - Business SA (**BSA**)⁴
 - Australian Business Industrial & NSW Business Chamber (**ABI & NSWBC**)⁵
3. The AWU submissions in reply appear below.

Reply submissions

Late and early work penalty

4. **Clause 24.4** [UV paragraph 11; BSA paragraph 6.9]: UV and the AWU agree in submissions that the penalties in clause 24.4 are payable in whole for both whole hours and part hours. BSA prefers the view that the penalties can be paid pro-rata, and has suggested that the

¹ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014283-sub-awu-200117.pdf>

² <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014283-sub-uv-200117.pdf>

³ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014283-sub-cmaa-211216.pdf>

⁴ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014-256andors-sub-bussa-180117.pdf>

⁵ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014-256andors-sub-abinswbc-180117.pdf>

confusion as to whether these penalties are payable in full for a part hour of work or not has arisen from the adoption of discrete dollar amounts in the Exposure Draft.

5. We disagree with the BSA submission. Both the Current Award⁶ and the Exposure Draft express the penalty as payable “*per hour or any part of an hour*” (emphasis added). Whether the penalty is expressed as an exact amount or a percentage of an exact amount, the outcome is the same: the penalty is paid in full for each full hour and also paid in full for any time less than an hour.

Accrued rostered days off

6. **Clause 15.7(a)** [BSA paragraph 6.6]: We disagree with the BSA submission that the removal of the word ‘*overtime*’ in the Exposure Draft amounts to a substantive change.

Minimum wages

7. **Clause 18.2** [UV paragraph 6]: UV and the AWU made similar submissions on rates of pay in response to the Commission’s comment at clause 18.2. Both parties suggested an amendment to the clause to improve clarity.
8. Taking into account the UV submission, we amend our previous proposal to clause 18.2 of the Exposure Draft:

*“An employee’s **ordinary** rate of pay **consists of** the award rate set out in this clause **plus** the additional allowance (where applicable) for first aid set out in clause 19.2(b). **The additional allowance for first aid is payable for all purposes.**”*

Annual leave

9. **Clause 25.1** [CMAA submission]: We do not oppose the changes to clause 25.1 proposed by CMAA.

Yours Faithfully,



Zachary Duncalfe
NATIONAL LEGAL OFFICER

⁶ Registered and Licensed Clubs Award 2010, clause 29.4