



Awards Review 2014 (AM2014/301)

Public holidays common matter

Brief outline of submissions

13 February 2015

1. The Australian Nursing and Midwifery Federation (ANMF) refers to the Statement of the Fair Work Commission (Justice Ross, President) dated 17 December 2014, which invites parties to file written submissions outlining the scope of their case in the public holidays common matter proceedings, the number of witnesses they are likely to call and the anticipated duration of proceedings.
2. Clause 32.3 of the *Nurses Award* currently provides:

Public holidays occurring on rostered days off

All full-time employees will receive a day's ordinary pay for public holidays that occur on their rostered day off except where the public holidays fall on Saturday or Sunday with respect to Monday-Friday employees.

3. The ANMF proposal is to extend the benefit of clause 32.3 to at least some part-time employees by inserting a new subclause 32.4 in the following terms:

A part-time employee who is ordinarily not required to work on the day of the week on which a particular holiday is observed shall not be entitled to any benefit for any such public holiday unless:

- a) he or she is required to work on the public holiday or the employee has worked on the day of the week the particular public holiday falls on 50% or more occasions over the last six months; or
- b) the employee has worked on that day 50% or more of the time since employment commenced where that employment has been for less than six months.

4. Existing subclauses 32.4 and 32.5 would be consequentially renumbered as subclauses 32.5 and 32.6.
5. The intention of the proposed clause is that part-time employees who more often than not work on the day on which a public holiday falls would receive their ordinary pay for that day even if they are rostered off on the actual day on which the holiday falls.
6. The ANMF submits that the rationale behind the inclusion of clause 32.3 applies equally to part-timers, especially those part-time employees who frequently work on the day of the week on which the public holiday falls.
7. The ANMF submits that the proposed variation would be consistent with the modern awards objective.

8. We are likely to provide no more than 2 or 3 witness statements in support of our proposed variation. If an opportunity is provided to file more detailed written submissions regarding public holiday proposals, then we expect that any hearing relating to the ANMF proposal alone would be unlikely to exceed half a day. We note however, that other public holiday proposals have been made in relation to other awards, including in relation to public holidays falling on rostered days off.
9. The ANMF has seen a draft of the ACTU public holidays submission and agrees with its contents, ie. we agree that there is sufficient commonality between the various union proposals as to warrant those proposals being treated in the same proceedings as common issues.