



# DECISION

*Fair Work Act 2009*  
s.156 - 4 yearly review of modern awards

## **STATE GOVERNMENT AGENCIES ADMINISTRATION AWARD 2010** (AM2015/7)

State and Territory government administration

VICE PRESIDENT WATSON  
DEPUTY PRESIDENT KOVACIC  
COMMISSIONER LEE

MELBOURNE, 31 JULY 2015

*Four yearly review of modern awards - State Government Agencies Administration Award 2010 – Award title – New general/field worker classification - Fair Work Act 2009 ss.135,138 and 156 .*

### **Introduction**

[1] On 21 April 2015 the President issued a direction that this Full Bench, as previously constituted, hear and determine the substantive issues raised during the 4 yearly review of modern awards with respect of the *State Government Agencies Administration Award 2010* (the Award). The Bench was reconstituted on 21 July 2015 to include Deputy President Kovacic in place of Deputy President Smith.

[2] The award review is required to be conducted in accordance with s.156 of the *Fair Work Act 2009* (the Act). Other provisions of the Act are also relevant including s.138 and the modern awards objective in s.134.

[3] Full Benches have dealt with these provisions and the approach to matters of this type in relation to the 4 yearly review.<sup>1</sup> We apply the approach outlined in those decisions to the determination of the issues in relation to this Award.

[4] The issues that we have been directed to determine are set out in Schedule B to the President's directions issued on 21 April 2015. The issues concern the following:

- title of the award
- classification structure
- personal/carer's leave and compassionate leave, and
- parental leave.

We will consider each of these matters in turn.

### **Award title**

[5] The Community and Public Sector Union (CPSU), Australian Municipal, Administrative, Clerical and Services Union (ASU), The Association of Professional Engineers, Scientists and Managers, Australia (APESMA) and The Australian Workers' Union (AWU) (collectively, the unions) seek to amend the title of the Award by removing the word 'Administration'. Clause 1 would therefore read as follows:

“This award is the State Government Agencies Award 2010.”

[6] The unions submit that the word 'administration' creates the impression that the award only deals with administrative or office work. The unions note that the current award title appears to have been derived from its placement in the then 2009 award modernisation proceedings as part of the 'State and Territory government administration' group. However, the award classification structure covers administrative, professional, and technical classifications. Further, the parties also propose to add a General/Field work classification. Accordingly, the unions submit that the removal of the word 'administration' would more appropriately represent the classifications in the award.

[7] The State of Victoria supports the proposed amendment.

[8] We are satisfied that the award title should be changed for the reasons advanced by the unions.

### **Classification structure**

[9] The unions submit that a General/Field work classification should be added to the award. This would require amendments to be made to Clause 13—Classifications, Clause 14—Minimum wages and Schedule B—Position Statements.

[10] The unions propose that clause 13 be amended so that the classifications under the award, including the proposed General/Field work classification, are specified in a new sub-clause as follows:

“**13.1** Classifications under this award are:

- (a) Administrative Stream
- (b) Technical Stream
- (c) Professional Stream
- (d) General/Field work stream

**13.2** A description of the classifications under this award are set out at Schedule B—Position Statements.”

[11] It follows that a description of the General/Field work stream classification should also be added to the award. The unions submit that the following should be added to Schedule B—Position Statements:

## **“B.4 General/Field Work Worker**

### **B.4.1 General/Field Work Worker level 1 (FW 1)**

- (a) A FW 1 works under general supervision. An employee at FW 1 will have:
  - (i) successfully completed, in accordance with RPL principles, a skills test equivalent to the required competency standards; or
  - (ii) successfully completed a relevant structured training program equivalent to the required competency standards; or
  - (iii) obtained skills equivalent to the above gained through work experience subject to competency testing to the prescribed standards.
  
- (b) An employee at the FW1:
  - (i) is responsible for the quality of their own work subject to general supervision;
  - (ii) works under general supervision either individually or in a team environment;
  - (iii) exercises discretion within their level of skills and training;
  - (iv) works in a safe manner;
  - (v) identifies basic faults in materials and equipment;
  - (vi) interacts harmoniously with employees;
  - (vii) adapts to a changing work environment;
  - (viii) communicates essential information; and
  - (ix) works from instructions and procedures articulated in written, spoken and/or diagrammatic form.
  
- (c) **Skills and duties**
  - (i) An employee at this level performs work to the extent of their skills, competence and training. Employees will acquire skills both formal and informal over time and with experience, and will undertake indicative tasks and duties within the scope of skills they possess.

(ii) An employee at this level may be required to perform a range of duties across the skill streams contained within this award. An employee at this level:

- works from instructions and procedures;
- assists in the provision of on-the-job training to a limited degree;
- co-ordinates work in a team environment or works individually under general supervision;
- is responsible for assuring the quality of their own work;

**B.4.2 General/Field Worker level 2 (FW 2)**

(a) FW 2 works under limited supervision. A FW 2 will:

- (i) have completed in accordance with RPL principles a Skills Test equivalent to the required competency standards; or
- (ii) have completed relevant structured training equivalent to the required competency standards; or
- (iii) successfully completed formally recognised accredited training so as to enable the employee to perform work within the scope of this level; or
- (iv) obtained skills equivalent to the above gained through work experience subject to competency testing to the prescribed standard.

**(b) Skills and duties**

- (i) An employee at this level performs work to the extent of their skills, competence and training. Employees will acquire skills both formal and informal over time and with experience, and will undertake indicative tasks and duties within the scope of skills they possess.
- (ii) An employee at this level may be responsible for the supervision of one or more employees working at FW 1 level.
- (iii) An employee at this level:
  - assists with the provision of on-the-job training;
  - assumes responsibility for allocating tasks within the area of the employee's skill, competence and training;
  - works from complex instructions and procedures;

- co-ordinates work in a team environment or works individually under general supervision;
  - is responsible for assuring the quality of their work;
  - works in a safe manner;
- (c) Indicative tasks which an employee at this level may perform include the following:
- non-trades maintenance of relevant plant and equipment;
  - anticipates and plans for constant changes to the work environment.
  - materials handling;
  - uses measuring and levelling instruments;
  - performs basic quality checks on the work of others;

#### **B.4.3 General/Field Worker level 3 (FW 3)**

- (a) A FW 3 works individually or in a team environment in one or more skill streams contained within this award. A CW/FW 3 will:
- (i) have successfully completed a relevant trade apprenticeship or its AQF equivalent; or
  - (ii) have successfully completed, in accordance with RPL principles, a Skills Test for this level; or
  - (iii) have successfully completed the required competency standards; or
  - (iv) obtained skills equivalent to the above gained through work experience subject to competency testing to the prescribed standard,

any one of which will qualify the employee as a FW 3.

**(b) Skills and duties**

- (i) An employee at this level performs work to the extent of their skills, competence and training. Employees will acquire skills both formal and informal over time and with experience, and will undertake indicative tasks and duties within the scope of skills they possess.
- (ii) An employee at this level may be responsible for the supervision of one or more employees working at FW 1 or FW 2 level.
- (iii) An employee at this level:

- understands and applies quality control techniques;
- exercises discretion within the scope of this grade;
- performs work of a trades or non-trades nature which is incidental or peripheral to the employee’s main function and facilitates the completion of the whole task;
- is able to inspect products and/or materials for conformity with established operational standards;
- assists in the provision of on-the-job training;
- performs work under limited supervision either individually or in a team environment.”

[12] In order to account for the new General/Field work classification, minimum wages relating to that classification should also be included in the award. The unions propose that the following sub-clause be added:

**“14.1 General/Field work stream**

Minimum rates of pay for the General stream are in **Table 1**.

**Table 1 – General/Field work stream<sup>1</sup>**

<b>NAME</b>	<b>Work Value Level</b>	<b>Minimum Weekly Rate</b>	<b>Minimum Hourly Rate</b>	<b>Minimum Casual Hourly Rate</b>
FW 1	1	\$728.00	\$19.20	\$24.00
FW 2	2	\$743.20	\$19.60	\$24.50
FW 3	3	\$764.90	\$20.10	\$25.20

<sup>1</sup> Building and Construction General On-site Award 2010 [MA000020]

[13] The unions submit that the addition of a General/Field work classification is necessary to address a gap in the award safety net.

[14] The State of Victoria supports the proposed amendments and submits that the addition of the General classification will align classification structures with the proposed Victorian State Government Agencies Award 2015.

[15] The unions submit that as a result of a General/Field work classification being added, a change will also need to be made to the coverage clause.

[16] The Construction, Forestry, Mining and Energy Union advised the CPSU that the proposed addition of a General/Field work classification in the award based on the rates and classification standards in the *Building and Construction General On-site Award 2010* may

inadvertently undermine the coverage of that award if two specified awards are not added to the exclusions in clause 4.2 of this award. Therefore it is submitted that the *Building and Construction General On-site Award 2010* and the *Joinery and Building Trades Award 2010* should be added to clause 4.2 to ensure that the *State Government Agencies Award 2010* does not apply to employers covered by those two awards.

[17] The State of Victoria supports the submissions of the unions in relation to this issue.

[18] We are satisfied that a case has been made out to vary the award in the manner sought by the parties. A fair and relevant safety net should cover all classifications of employees commonly covered by awards employed in the state government agencies covered by this award. The terms have been derived from other awards covering similar types of employees. We are satisfied that the wage rates are justified on work value grounds and the changes are necessary to achieve the modern awards objective.

### **Personal/carer's leave, compassionate leave and parental leave**

[19] Issues concerning personal/carer's leave, compassionate leave and parental leave were also set out in the directions issued by the President. The unions sought to supplement the National Employment Standards with superior public sector standards in relation to personal, carer's, compassionate and parental leave.

[20] In correspondence to the Commission of 7 May 2015 the unions advised that they no longer intend to pursue those issues, as a superior common standard was not able to be identified.

### **Conclusion**

[21] We will vary the Award to reflect the changes approved in this decision. An order is issued in conjunction with this decision.



VICE PRESIDENT

*Final written submissions:*

The unions on 26 June 2015 and 16 July 2015.

State of Victoria on 17 and 20 July 2015.

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<sup>1</sup> See [2015] FWCFB 620, [2014] FWCFB 1788 and [2015] FWCFB 616.