DECISION

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

Seagoing Industry Award 2010
(AM2014/243)

VICE PRESIDENT HATCHER
SENIOR DEPUTY PRESIDENT HAMBERGER
COMMISSIONER BISSETT SYDNEY, 12 JANUARY 2018

4 yearly review – alleged NES inconsistencies – Seagoing Industry Award 2010 – vessels granted a temporary licence – maximum weekly hours – s 62(1)

[1] On 7 November 2016, this Full Bench was constituted in relation to the question of whether clause 27 of the *Seagoing Industry Award 2010* (Seagoing Award) is inconsistent with the National Employment Standard concerning maximum working hours in s 62(1) of the *Fair Work Act 2009* (FW Act). Clause 27 is located in Part B of the Seagoing Award, which applies to vessels that have been granted a temporary licence under Division 2 of Part 4 of the *Coastal Trading (Revitalising Australian Shipping) Act 2012* (Cth).

[2] Clause 27 provides:

> **27. Ordinary hours of work**
>
> **27.1** The ordinary hours of work will be eight hours per day from Monday to Friday.
>
> **27.2** All hours worked in excess of eight hours per day from Monday to Friday will be paid as overtime.
>
> **27.3** All hours worked on Saturdays, Sundays and public holidays will be paid for as overtime.

[3] Section 62 of the FW Act relevantly provides:

> **62 Maximum weekly hours**
>
> *Maximum weekly hours of work*
>
> (1) An employer must not request or require an employee to work more than the following number of hours in a week unless the additional hours are reasonable:
>
> (a) for a full-time employee—38 hours; or

(b) for an employee who is not a full-time employee—the lesser of:

(i) 38 hours; and

(ii) the employee's ordinary hours of work in a week.

Employee may refuse to work unreasonable additional hours

(2) The employee may refuse to work additional hours (beyond those referred to in paragraph (1)(a) or (b)) if they are unreasonable.

Determining whether additional hours are reasonable

(3) In determining whether additional hours are reasonable or unreasonable for the purposes of subsections (1) and (2), the following must be taken into account:

(a) any risk to employee health and safety from working the additional hours;

(b) the employee's personal circumstances, including family responsibilities;

(c) the needs of the workplace or enterprise in which the employee is employed;

(d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, working additional hours;

(e) any notice given by the employer of any request or requirement to work the additional hours;

(f) any notice given by the employee of his or her intention to refuse to work the additional hours;

(g) the usual patterns of work in the industry, or the part of an industry, in which the employee works;

(h) the nature of the employee's role, and the employee's level of responsibility;

(i) whether the additional hours are in accordance with averaging terms included under section 63 in a modern award or enterprise agreement that applies to the employee, or with an averaging arrangement agreed to by the employer and employee under section 64;

(j) any other relevant matter.

. . .

[4] The apparent inconsistency between clause 27.1, which establishes an ordinary working week of 40 hours Monday-Friday for full-time employees, and s 62(1), which

establishes a standard ordinary working week of 38 hours for full-time employees, was raised by the Fair Work Ombudsman in the course of the Commission's conduct of the 4 yearly review of modern awards required by s 156 of the FW Act.

[5] On 17 January 2017 we issued directions for interested parties to file written submissions in relation to the issue. Submissions were subsequently filed by the Maritime Union of Australia (MUA) and Maritime Industry Australia Limited (MIAL). The MUA submitted that clause 27 was inconsistent with s 62(1). The MIAL however submitted that there was no inconsistency for the following reasons:

- clause 27 provided for the payment of overtime only after 40 hours, but that did not necessarily mean that the two additional hours required to be worked after 38 hours were not reasonable;

- clause 18.4 of the Seagoing Award permitted employers covered by Part A of the award to average weekly hours over the course of a year, and clause 18.6 directly contemplated employees working on a swing cycle;

- because ordinary weekly hours for Part A employees could be up to 40 hours without requiring a test for reasonableness, which was relevant to the consideration in s 62(3)(g), namely "*the usual patterns of work in the industry, or the part of an industry, in which the employee works*";

- temporary licensed ships only become covered by Part B of the Seagoing Award during their third journey under a temporary license within 12 months, and the point at which coverage applied could be mid-swing and might last for an indeterminate period which could be from days to weeks; and

- in this industry context of intermittent coverage of employees for a short period, payments under Part B of the Seagoing Award were likely to be calculated per day and not per week or per month, which made it sensible to have the assessment of whether additional hours are reasonable made per day.

[6] In submissions in reply, the MUA submitted:

- clause 27 did not enable an employee to refuse to work the additional two hours because they were unreasonable;

- in any event, no evidence or submissions were advanced by MIAL addressing each of the factors in s 62(3); and

- clause 18.4 was irrelevant because it did not apply to Part B employers and employees.

[7] We consider that it is plain that clause 27 of the Seagoing Award is inconsistent with s 62(1). On its face, it requires employees to work a 40 hour working week. Its effect is not modified by any other provision in Part B. In this respect, it may be contrasted to clause 18.2, which is located in Part A of the award. Part A applies to vessels other than those which have been granted a temporary license. Clause 18.2 provides that the "*ordinary hours for operational and maintenance work will be eight hours per day each day of the week*" – that is,

56 hours per week. However this is subject to clause 18.4, which provides that for the purpose of the National Employment Standards (NES) the employee's weekly hours may be averaged over a period of up to 52 weeks (a provision authorised by s 63 of the FW Act), and clause 20.1 provides for a leave accrual of 0.926 of a day for each working day which is intended to take into account all NES leave entitlements and "*a 35 hour working week*" (cl 20.2(e)). Clause 18.2 is, because of the effect of these provisions, not inconsistent with s 62(1). Clauses 18.4 and 20 have no application to Part B employees, and there are no equivalent provisions in Part B.

[8] Clause 27 does not contemplate any circumstances in which the employee may refuse to work an additional two hours after completing 38 hours' work because such additional hours are unreasonable. We cannot be satisfied that, having regard to the matters specified in s 62(3), such additional hours could *never* be unreasonable. Therefore the conclusion is unavoidable that clause 27 requires employees covered by Part B to work two hours in addition to 38 hours per week even when this is unreasonable, and is thus inconsistent with s 62(1).

[9] Section 55(1) of the Act prohibits a modern award from excluding the NES or any provision of them. Section 56 provides that a term of a modern award has no effect to the extent that it contravenes s 55. We consider that clause 27.2, at least, contravenes s 55(1) as it excludes the NES maximum weekly hours requirement and is of no effect.

[10] The issue therefore arises as to what variation should be made to the Seagoing Award to remedy this situation. The MUA submitted that clause 27 should be varied to read as follows:

> **27. Ordinary hours of work**
>
> **27.1** The ordinary hours of work will be 7.6 hours per day from Monday to Friday.
>
> **27.2** All hours worked in excess of 7.6 hours per day from Monday to Friday will be paid as overtime.
>
> **27.3** All hours worked on Saturdays, Sundays and public holidays will be paid for as overtime.

[11] MIAL submitted (in the alternative to its primary submission earlier summarised) that:

- the proposed MUA variation did not introduce clarity but added a new requirement that all hours over 38 per week had to be paid as overtime, which was strongly opposed;
- such a variation would disturb the wage rates and leave provisions of the award, which had been calculated based on 40 hours a week being ordinary hours; and
- if the Commission was minded to accept the MUA's proposed variation, then there would need to be a corresponding adjustment to the wage rates listed in Part B of the award.

[12] MIAL did not provide any material substantiating its submission that the wage rates in Part B were calculated on the basis of a 40 hour week. The MUA did not respond to this aspect of MIAL's submissions in its rely submissions.

[13] We are minded to vary clause 27 in the manner proposed by the MUA. Section 134(1) requires that modern awards provide a fair and relevant minimum safety net of terms and conditions, taking into account a number of specified matters. We consider that such a fair and relevant safety net should provide for ordinary weekly hours consistent with the standard established by s 62(1), and that consistent with standard practice overtime penalty rates should be payable for hours worked in addition to ordinary hours. However we also accept (having regard in particular to the consideration identified in s 134(1)(f)) that *if* the wage rates for Part B employees were fixed on the basis of a 40 hour week, there would need to be some corresponding adjustment to those rates in order to avoid a situation where the employer ends up paying twice where two hours are worked in addition to 38 hours per week.

[14] The ordinary assumption would be that the weekly rates of pay in an award for full-time employees have been assessed as reflecting the appropriate minimum rate of pay for the ordinary hours of work required to be performed by the employee under the award. However, the terms of clause 25 in Part B of the Seagoing Award, which sets out the classifications and minimum weekly wage rates for employees covered by Part B, cast some doubt on this. Clause 25 provides:

> **25. Classifications and minimum wage rates**
>
> The classifications and minimum wages for an employee are set out in the following table:

Classification	**Minimum weekly wage $**
Master	1329.80
Chief engineer	1307.90
First mate/First engineer	1133.90
Second mate/Second engineer/Radio Officer/Electrical Engineer	1049.60
Third mate/Third engineer	1006.00
Chief integrated rating/Bosun/Chief cook/Chief steward/ Carpenter/ Fitter/ Repairer/Donkeyman/ Electrician	951.80
Integrated rating/Able seaman/Fireman/Motorman/Pumpman/Oiler greaser/Steward	867.40
OS/Wiper/Deckboy/Catering Boy/2nd Cook/ Messroom Steward	731.60*

> * Minimum wage for 40 hours

[15] On its face, the asterisk and footnote applying to the "*OS/Wiper/Deckboy/Catering Boy/2nd Cook/Messroom Steward*" indicate that, for that classification, the prescribed minimum wage is for a 40 hour week. However the question then arises as to whether we should infer that the minimum wage rates for the other classifications are *not* based on a 40 hour week, but something else. In order to attempt to address this question, it is necessary to examine the circumstances of the development of Part B of the Seagoing Award.

[16] The Seagoing Award was made as a result of the award modernisation process conducted by a Full Bench of the Australian Industrial Relations Commission AIRC pursuant to Part 10A of the *Workplace Relations Act 1996* (WR Act) in 2008-9. The genesis of Part B of the Seagoing Award was discussed in the Full Bench award modernisation decision of 4 December 2009[1] as follows:

> "*Seagoing Industry Award 2010*
>
> [159] An award for the seagoing industry was originally a matter to be dealt with in Stage 3 of the award modernisation process. In June 2009, the Minister advised that new regulations were to be made extending the application of the Fair Work Act to ships which had been granted a permit under the *Navigation Act 1912.* Those regulations were made in August 2009. On 17 August 2009 the Minister varied the consolidated request to include the following:
>
> '*Maritime Industry*
>
> 47. When creating a modern award covering the maritime industry, the Commission should ensure that the modern award covers employers on licensed, permit or majority Australian crewed shops (as defined in item 1 of Schedule 2 to the Fair Work Amendment Regulations 2009 (No.1)) and their employees.
>
> 48. The Commission should give consideration to the circumstances and needs of the employers and employees in the areas described in these regulations.
>
> 49. As well as giving consideration to the modern awards objective in s576A of Part 10A of the Workplace Relations Act 1996, the other terms of this award modernisation request and the NES, the Commission should consider whether it is appropriate to establish award provisions for employers of the crews of permit ships and their employees relating to accrued entitlements and associated arrangements. In considering this matter, the Commission should have regard to the needs of those employers and employees who may be in Australia for relatively short period or who are regularly moving in and out of the Australian jurisdiction.'
>
> [160] In light of these developments the Commission considered it appropriate to provide interested parties with an opportunity for further consultation and that the modern award for the seagoing industry would be considered in Stage 4 of the award modernisation process, rather than in Stage 3 as originally planned. We were

[1] *Award Modernisation - Decision - re Stage 4 modern awards* [2009] AIRCFB 945

subsequently informed that on 26 October 2009 the Minister indicated that relevant amendments were to be made to the Fair Work Regulations 2009. Those regulations, we were told, would deal with the circumstances in which a vessel which has been granted a permit, whether a single voyage or continuing one, would come within the scope of the Fair Work Act.

[161] With our statement of 25 September 2009 we published an exposure draft of a seagoing award. We addressed the issue of award coverage of permit ships and made a provisional decision to deal with such ships in Part B of the modern award. Our decision included the following:

> '[155] Conscious of the variation to the consolidated request we have decided to divide the award into Part A and Part B. We have tentatively described Part A as applying to non-permit vessels, which are essentially the respondents to the existing award. Part B will apply to permit vessels.
>
> [156] The specific provisions applicable to Part B vessels will also require substantial consideration. While we will be better informed by the further submissions of interested parties, including in the public consultations in October 2009, our preliminary view is that Part B conditions will need to pay due regard to conditions applying internationally, including what has been referred to as the ITF agreement. We also note that cll.28 to 35 of the consolidated request govern the manner in which modern award provisions can interact with the NES. Proposals which relate to the effect of the NES on crew covered by Part B of the modern award will need to be framed with those provisions in mind.'

[162] The lack of certainty as to the applicable legislation has resulted in some difficulties for the parties in putting submissions to us. Indeed, some parties pressed us not make any award until the intention of the Parliament is clear.

[163] Several employer groups have submitted that conditions of employment for some or all permit ships should reflect those found in what are termed ITF (International Transport Federation) agreements. We understand that there is no single ITF agreement. There is a range of different standard instruments, which are adopted or modified in agreements applying to a particular enterprise. It was said that there are currently 6500 agreements based on ITF instruments. Not surprisingly, given the fluidity of the legislative environment in which they found themselves, no party provided a specific set of conditions that could apply as Part B.

[164] We have also noted that the unions oppose any differentiation of provision between vessels. Their position is said to be strengthened by the proposed regulations which, if made, will point to the Parliaments' intention that certain types of permit vessels should have the same conditions applied to them as apply to licensed and majority Australian-crewed ships.

[165] We have decided, for now, to maintain two parts to the award. Part A will apply to all ships other than those operating under a permit and remains unchanged from the exposure draft. Part B will apply to ships operating under the permit system. In all of the circumstances we are not able to make an award that would establish a final set of

> appropriate conditions for foreign ships operating under the permit system. Notwithstanding the limitations in the material before us we have decided to include some basic conditions in Part B which we consider are consistent with some accepted standards in ITF agreements and which are capable of ready application to permit ships.
>
> [166] In respect of minimum wages we have set them out as weekly rates and utilised the broad methodology which was used in the award simplification process. We regard the integrated rating as the key classification and we have then maintained established relativities.
>
> [167] We are conscious that the provisions in Part B have been formulated while the legislative arrangements in relation to permit vessels have not been finalised and, as described earlier, for various reasons there has not been comprehensive consultation or debate on critical issues. For these reasons we have decided that while the modern award will commence on 1 January 2010, Part B will not come into operation until 1 January 2011.
>
> [168] An additional reason for caution is that permit ships have hitherto never been subject to Australian industrial regulation.
>
> [169] Finally, we observe that Fair Work Australia will have the power to vary the award to achieve the modern awards objective. The delayed operative date in relation to permit vessels will provide an opportunity for interested parties to better inform Fair Work Australia in this regard. In relation to Part A of the modern award, it must be said that the circumstances attending the making of the award have not been ideal and it is likely that in due course the terms of Part A will also require review."

[17] The reference in paragraph [166] in the above passage to the "broad methodology which was used in the award simplification process" appears to be to the process by which the rates of pay in the *Maritime Industry Seagoing (Interim) Award 1998* were converted from paid rates to properly fixed minimum rates of pay as part of the award simplification process conducted pursuant to item 51 of Part 2 of Schedule 5 of the *Workplace Relations and Other Legislation Amendment Act 1996*.[2] The method by which this was done was described in a 2006 AIRC decision[3] as follows:

> "[109] Up to 1998-99, MISA was a paid rates award. It was then necessary, because of legislative requirements, to convert it to an award containing properly fixed minimum rates.
>
> [110] In undertaking the process, the parties were guided by the minimum rates conversion process affecting the Tugboat Industry Award. In that process, the Commission accepted that the key classification in the Tugboat Industry Award was the "general purpose rating". It was further accepted by the Commission that the appropriate relativity between the general purpose rating and the Metals Award fitter was 92.5% based on skills and competency. The Commission also determined that the

[2] See Print Q9604

[3] PR968570

> "nature of the industry" warranted an additional component of 5% resulting in a relativity to the fitter of 97.5%.
>
> [111] According to the evidence (Exhibit McN4/276) the parties decided to utilise the recently established relativity between the general purpose rating of the Tugboat Industry Award with the Metals Award fitter by focussing on the comparison between the general purpose rating in the Tugboat Industry Award and the integrated rating in MISA.
>
> [112] It was accepted that the integrated rating was the key classification in MISA and would be the benchmark whereby, once properly set, other classifications would be adjusted by maintaining existing internal relativities."

[18] The *Maritime Industry Seagoing (Interim) Award*, which does not appear to have covered "flag of convenience" shippers operating under any earlier equivalent of the current temporary licence regime, had "hours of work" provisions that were effectively the same as those in Part A of the Seagoing Award. However we do not read the reference in paragraph [166] to that process as expressing an intention that the rates established for Part B be based on a 35-hour week, but simply that the method previously adopted to quantify the minimum rates, as described in the 2006 decision, was utilised by the award modernisation Full Bench.

[19] A better guide to the Full Bench's intention with respect to hours of work is the reference in paragraphs [163]-[165] to ITF Agreements, upon which it chose to base the conditions established in Part B. The ITF Seafarers website explains that ITF Agreements only apply to ships flying a Flag of Convenience, and fall into three main categories - the ITF Standard Agreement, the ITF Total Crew Cost (TCC) Agreement, and the International Bargaining Forum (IBF) Agreement. The ITF Uniform TCC Agreement is the most commonly used, and its current version contains the following provisions:

> *Hours of Duty* – The normal hours of duty shall be eight hours per day from Monday to Friday inclusive.[4]
>
> *Overtime* – Any hours of duty in excess of the 8 (eight) shall be paid for by overtime, the hourly overtime rate shall be 1.25 the basic hourly rate calculated by reference to the basic wage for the category concerned and the weekly working hours (Annex 2).[5]

[20] Since clauses 27 and 28 of Part B of the Seagoing Award are the same in substance as the above provisions, it is overwhelmingly likely that the ITF Uniform TCC Agreement was their source. We infer from that that the award modernisation Full Bench made a deliberate choice to adopt a 40 hour week, and the rates of pay were established with that intention in mind.

[21] Notwithstanding paragraphs [167] and [169] of the award modernisation Full Bench's decision, there was no further consideration of the terms of Part B prior to it taking effect on 1 January 2011. The classifications and pay rates did not at that stage include "*OS/Wiper/Deckboy/Catering Boy/2nd Cook/ Messroom Steward*" (and some of the other

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[4] ITF Uniform "TCC" Collective Agreement at para 5.1, page 2.

[5] ITF Uniform "TCC" Collective Agreement at para 6.1, page 3.

classifications did not contain the full range of functions which they currently contain). The classification structure was modified as a result of the two yearly review of the award conducted pursuant to Sch. 5, Item 6 of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*. In a decision issued on 19 December 2012[6], a new classification and rate was added: "*All other crew members – interim rate $638.40*".

[22] There were submissions made during the review that Part B be varied to allow payment by way of aggregate salaries. One proposal, advanced by CSL Australia Pty Ltd and V-Ships Australia Pty Ltd on 25 October 2012, proposed the introduction of such salaries based on a methodology apparently involving a 38-hour week. However this never came to fruition. A decision issued on 6 August 2013[7] stated:

> "[16] I accept the submission that the provision for weekly wage rates in Part B of this award and the absence of aggregate salaries as provided in Part A is presenting practical compliance and enforcement issues for employers operating temporary licence voyages. In my view it is consistent with the test in this review that this situation be remedied by the establishment of an alternative payment system based on aggregate salaries. However I am unable to reconcile the competing submissions as to the particular aggregate salaries proposed in the revised application and the contention by the unions that these salaries represent a reduction in entitlements. In my view the weekly rates in Part B should be the basis for the calculations so that the aggregate wage alternative reflects an equivalent level of pay with the incorporation of allowances and penalties by way of an established methodology such as that underpinning Part A, adapted to the extent necessary. I direct the applicants to confer on this methodology with the unions with a view to obtaining an agreed position. The other changes to the classification structure deferred pending this application should be incorporated in a revised clause 24. I will relist the matter at the request of any interested party to assist in the finalisation of the matter."

[23] The issue of aggregate salaries did not progress beyond this point. On 18 August 2014 clause 25 was varied to include the "*OS/Wiper/Deckboy/Catering Boy/2nd Cook/ Messroom Steward*" classification and weekly rate. That rate was calculated by multiplying the hourly rate for the National Minimum Wage by 40. That had always been the intention, as made clear by the MUA's submission advanced during the two yearly review on 5 December 2012:

> "So there's evidence before this tribunal that these classifications are worked in this part of the industry. If I could start at the bottom of the list, you'll see in MUA3 that at the bottom we ask that the OS - which is the industry nomenclature for ordinary seaman - wiper, deck boy, catering boy, second cook, mess room steward be paid a rate of 638.40 per week. That is what we say is the minimum wage that can be payable to these employees under the Fair Work Act. We derive it by looking at the award, and the award sets out in clause 26 that the ordinary hours of work - and it's worth having a look at, because it's a little unusual for a modern award to say this. It says in very simple terms, "The ordinary hours of work will be eight hours per day from Monday to Friday." So putting aside what the National Employment Standard might say about ordinary hours, Part B says the ordinary hours are 40 hours per week.

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[6] [2012] FWA 10657

[7] [2013] FWC 5414

> So what we have done is we've looked at the national minimum wage order which was last issued in print PR062012 which set a minimum wage of $15.96 per hour, and multiplied that by 40 hours to reach the 638.40 that's inserted in that provision."[8]

[24] We provisionally conclude from this history that what we have earlier described as the "ordinary assumption" is correct – that is, the rates of pay for all classifications in clause 25 were always intended to be reflective of a 40 hour week. It is not the case that the 40 hour week in clause 27 was the result of any error made in a manner disjunctive from the establishment of the rates of pay. We therefore provisionally consider that, as submitted by MIAL, there needs to be a reduction (of 5%) in the rates of pay in clause 25 introduced in conjunction with the alteration to clause 27 proposed by the MUA. The alterations are necessary to constitute a fair and relevant safety net for Part B employees and employers, taking into account the matters identified in s 134(a)-(h). They are also necessary to establish and maintain a safety net of fair minimum wages taking into account the matters specified in s 284(1)(a)-(e).

[25] It may be noted that, in relation to the conduct of the 4 yearly review of modern awards, s 156(3) and (4) provide:

> *Variation of modern award minimum wages must be justified by work value reasons*
>
> (3) In a 4 yearly review of modern awards, the FWC may make a determination varying modern award minimum wages only if the FWC is satisfied that the variation of modern award minimum wages is justified by work value reasons.
>
> (4) ***Work value reasons*** are reasons justifying the amount that employees should be paid for doing a particular kind of work, being reasons related to any of the following:
>
> (a) the nature of the work;
>
> (b) the level of skill or responsibility involved in doing the work;
>
> (c) the conditions under which the work is done.

[26] We doubt that the adjustment to clause 25 we propose to make constitutes a variation to minimum wages as such, since it involves a shorter working week with the same hourly rate payable for each ordinary hour worked. In any event, we consider that the adjustment would be justified by work value reasons, in that the reduction of ordinary hours from 40 to 38 constitutes a significant change to the conditions under which work is done. The variations to clauses 25 and 27 will leave employees better rather than worse off under the award's minimum rates. If an employee works 40 hours or more (as is overwhelmingly likely on a maritime voyage), an additional 2 hours work will be paid at the overtime rate rather than the ordinary-time rate. In the unlikely event that the employee works only 38 hours, the weekly rate will be lower but the employee will be required to work two less hours.

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[8] Transcript AM2012/326, AM 2012/348, 5 December 2012, PN 314

[27] We will publish in conjunction with this decision a draft determination that would give effect to the provisional conclusions we have reached in this decision. We will the allow parties a period of 28 days from the date of this decision in which to file written submissions in relation to the draft determination and any matter dealt with in this decision. We will then determine a final outcome.

VICE PRESIDENT

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DRAFT DETERMINATION

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

4 yearly review of modern awards – alleged NES inconsistencies
(AM2014/243)

SEAGOING INDUSTRY AWARD 2010
[MA000122]

Maritime industry

VICE PRESIDENT HATCHER
SENIOR DEPUTY PRESIDENT HAMBERGER
COMMISSIONER BISSETT SYDNEY, XXXXXX 2018

4 yearly review of modern awards – alleged NES inconsistencies – vessels granted a temporary licence – maximum weekly hours – s 62(1).

A. Further to the Full Bench decision issued by the Fair Work Commission on xx February 2018 [[2018] FWCFB 129], the above award is varied as follows:

1. By deleting the table and the note appearing in clause 25 and inserting the following:

Classification	**Minimum weekly wage $**
Master	1263.30
Chief engineer	1242.50
First mate/First engineer	1077.20
Second mate/Second engineer/Radio Officer/Electrical Engineer	997.10
Third mate/Third engineer	955.70
Chief integrated rating/Bosun/Chief cook/Chief steward/ Carpenter/ Fitter/ Repairer/Donkeyman/ Electrician	904.20
Integrated rating/Able seaman/Fireman/Motorman/Pumpman/Oiler greaser/Steward	824.00
OS/Wiper/Deckboy/Catering Boy/2nd Cook/ Messroom Steward	695.00

2. By deleting the words “eight hours” appearing in clause 27.1 and inserting “7.6 hours”.

3. By deleting the words “eight hours” appearing in clause 27.2 and inserting “7.6 hours”.

B. This determination comes into operation from xx February 2018. In accordance with s.165(3) of the Fair Work Act 2009 this determination does not take effect until the start of the first full pay period that starts on or after xx February 2018.

VICE PRESIDENT