

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

AM2014/260

**Exposure Draft – Building and Construction General On-site Award 2016 –
Drafting and Technical Issues**

**Submissions of the Communications, Electrical, Electronic, Energy,
Information, Postal, Plumbing and Allied Services Union of Australia
(CEPU)**

- 1 The CEPU notes that the proceedings in AM2014/196 Part-time employment provisions and AM2014/197 casual employment provisions may affect the provisions in the Building and Construction General On-site Award 2016.

adult apprentice means a person of 21 years of age or over at the time of entering into a contract of training in a specified trade

- 2 The observation is made: “This definition of “adult apprentice” is different to the definition provided in clause 14.1(a).”
- 3 The CEPU is of the view that not more than one definition is required. The definition at 14.1(a) is preferred to that in clause 2 and is more appropriately located.

12.2 A casual employee is entitled to all of the applicable rates and conditions of employment prescribed by this award except annual leave, paid personal/carer’s leave, paid community service leave, notice of termination and redundancy benefits.

- 4 “Parties are asked if the provisions in clause 23—Inclement weather apply to casual employees how these provisions are to be applied, given that the provisions are based on a four week accrual period.”
- 5 The CEPU submits that it is clear that the inclement weather provisions apply to casuals. If they did not there would be an exclusion to that effect within the provision; there is not.

12.5 A casual employee must be paid a casual loading of **25%** for ordinary hours as provided for in this award. The casual loading is paid as compensation for annual leave, personal/carer’s leave, community service leave, notice of termination and redundancy benefits and public holidays not worked.

- 6 Parties are asked whether the casual hourly rate should be calculated by adding 25% to the hourly rate specified in clause 19.1, or calculated in accordance with either 19.3(a) or 19.3(b), or on any other basis.

- 7 The CEPU understands this matter was referred to a full bench to determine. See paragraph [111] of the Full Bench 30 September 2015 Decision¹:
- In respect of the specific controversy concerning the *On-Site Award*, we note that the MBA and HIA have lodged applications to resolve that controversy in the proceedings before the Full Bench dealing with the issues of part-time and casual employment.² We consider that those applications constitute the appropriate vehicle by which that very specific issue may be resolved. We do not propose to give it any further consideration in this decision.
- 8 Is the Standards Association of Australia for work in compressed air, Part 1 Airlock Operations still the applicable code for the purpose of clause 16.12?
- 9 The CEPU understands that this standard has changed. The reference to the new standard should be updated and the wording of the clause should be amended to include any successor standard.
- 10 In respect of clause 21.12 the electrician's licence allowance, the question is posed, "Parties are asked whether there should be a provision for WA, ACT, or NT."
- 11 The CEPU submits that for completeness they should be included, or in the alternative 21.12(b) could simply be deleted.
- 12 The current listing at 21.12(b) appears to be somewhat out of date. Western Australia is currently the only state which still uses the term "A" Grade.
- 13 In every state there exists a legislative scheme and licensing authority, which are essentially in place to ensure that the requisite skill levels and standards are possessed by licence holders in order to carry out safe electrical wiring work. Each state and territory administers its own occupational licences. However, under the Mutual Recognition Act 1992 (MRA), electricians, as with workers in other defined occupations, holding a licence in one jurisdiction are entitled to a licence in another jurisdiction if equivalent work is licensed in both.

¹ [2015] FWCFB 6656

² AM2014/196 and AM2014/197

14 Below in Table 1 is a summary of the various state and territory licences and the regulating authority.

State	Statutes under which Electrician licences are issued	Licence Name	Regulator
ACT	Electricity Industry Safety and Administration Act 1997	Unrestricted Electrician Licence	ACT Environment and Sustainable Development
NSW	Home Building Act 1989	Qualified Supervisor Certificate – Electrical	Office of Fair Trading
NT	Electrical Workers and Contractors Act	Electrical Workers Licence – Endorsed Electrical Mechanic OR Electrical Workers Licence - Endorsed Electrical Mechanic and Fitter	Electrical Workers and Contractors Licensing Board
QLD	Electrical Safety Act 2002	Electrical Mechanic Licence OR Electrical Fitter/Mechanic Licence	WorkCover Queensland
SA	Plumbers Gasfitters and Electricians Act 1995	Electrical Workers Registration – Any Electrical Work	Consumer and Business Services
TAS	Electricity Industry Safety and Administration Act 1997	Electrical Technicians/ Electricians Licence	Building Standards and Occupational Licensing Department of Justice
VIC	Electricity Safety Act 1998	Electrician's Licence	Energy Safe Victoria
WA	Electricity Act 1945	“A” Grade Electrical Workers Licence – Endorsed as Electrical Mechanic OR “A” Grade Electrical Workers Licence – Endorsed as Electrical Fitter/Mechanic	Energy Safety Department of Commerce

Table 1

15 Under the MRA the agreed scope of work for all electrician licences in the above table is defined in the following manner:

“Licensed electrician” means a person who is licensed to undertake unsupervised electrical work in a jurisdiction.

- 16 As an alternative to listing the various States and Territories and the correct name of the licence, perhaps the wording contained in the MRA could form a basis for a replacement text.
- 17 On page 69 of the exposure draft the following question is asked:
- 18 “Parties are asked whether the words ‘beyond an employee’s ordinary time of work’ in clause 28.4 should be amended to ‘outside an employee’s ordinary time of work’ or ‘outside or in addition to an employee’s ordinary time of work’. This may clarify the application of overtime to casual employees.”
- 19 The CEPU understands that the CFMEU has drafted a provision relating to the hours of work in respect of casuals, and that this clause if inserted would adequately address the question posed.
- 20 In respect of cl 41.2, the weekly minimum wage rate for forepersons and supervisors, the CEPU supports the submission of the AMWU.
- 21 On page 121 of the Exposure draft at E.3.3 the “Parties are asked to identify “any training program which applies to the same occupation and achieves essentially the same training outcome as an existing apprenticeship in an award as at 25 June 1997” that they consider should not be covered by this Schedule.”
- 22 The CEPU has not been able to identify any training program.
- 23 In respect to E.7 on page 127, “Parties are asked to review the packages listed to ensure the lists are complete and up-to-date,” the CEPU has not identified any concerns in respect of those training packages relevant to our membership.

END