

IN THE FAIR WORK COMMISSION

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 Yearly Review of Modern Awards

AM2014/202

**UFU SUBMISSIONS REGARDING EXPOSURE DRAFT FOR FIRE FIGHTING INDUSTRY
AWARD 2010**

DRAFT SUBMISSIONS REGARDING MODERN AWARD EXPOSURE DRAFT

1. During a conference on October 21, FWC President Justice Ross confirmed that the purpose of the exposure draft was not intended to provided for any alteration to conditions in material way.
2. For the most part, the changes suggested in the exposure draft serve to clarify and simplify the Award.
3. The exposure draft also identifies a number of potential errors in the Award and areas where clarification is otherwise required from parties. This has been provided below.

Definition of 10/14 Roster System

4. On page 10 of the exposure draft parties are asked to confirm whether the definition of the 10/14 roster system based on paragraph 12 of the United Firefighters Union of Australia submission to the Award modernisation proceedings dated 16 October 2009 should be incorporated into the award.
5. For reasons of clarity, the UFU support the inclusion of the suggested definition of the 10/14 Roster System that is provided at clause 9.2 of the Award.

Day Work

6. The UFU submit that operational firefighters covered by this award are not able to undertake operational firefighting duties or fulfill crewing requirements on rosters other than the 10/14.

7. Day work may be performed whilst an employee is undertaking special administrative duties. However, day work may not be performed whilst an employee is engaged on the 10/14 roster.

Authorised / Unauthorised Absences

8. On page 12 of the exposure draft, parties are asked to clarify whether an “authorised absence” in clause 9.4(h) should be an “unauthorised absence” as per 14.3.6 of Victorian Firefighting Industry Employees Interim Exposure draft - Fire Fighting Industry Award 2015 MA000111 13 Award 1993 - [AP801881].
9. The UFUA submit that the clause should refer to an 'unauthorised absence'. The intention of the clause appears to be to provide arrangements for when a fire fighter may be absent from a shift without excusing the absence if it is unauthorised. The reference to an authorised absence is likely to have been caused

Minimum Weekly Rate / Total Weekly Wage

10. On page 25 of the exposure draft, parties are asked to clarify whether the reference to the minimum weekly rate in clause 20.1(c) should be to the “total weekly wage in clause 13”.
11. The UFU submit that the reference to “minimum weekly rate” in clause 20.1(c) should be to the “total weekly wage in clause 13”.
12. The intention of the clause is to prevent any additional payment for overtime where payment has already been provided as part of the "total weekly wage". The minimum weekly wage does not provide payment for overtime.

Overtime for Shift Workers not working a 10/14 roster

13. On page 25 of the exposure draft, parties are asked to clarify when overtime is payable to shift workers within the private sector who do not work on a 10/14 roster.
14. The UFU submit that overtime should be payable to shift workers not working a 10/14 roster on the
15. same basis as those working a 10/14 roster. Specifically, overtime should be paid where a fire fighter works outside their rostered shifts or works more than 4 shifts in any week.

Public holidays – day workers

16. On page 27 of the exposure draft parties are asked to comment on whether the reference to 50% in clause 21.3(a) should be to 150% of the ordinary hourly rate.
17. The UFU submit that 150% percent is the applicable figure which is as per the standard public holiday penalty rate in Modern Awards.

Rate of Pay During Annual Leave

18. On page 29 of the exposure draft, parties are asked to consider whether a provision should be inserted in clause 22 to clarify the rate of pay for an employee on annual leave.
19. This clarification is assumed to be the note in clause 22.1 that states: Where an employee is receiving over award payments such that the employee's base rate of pay is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see ss.16 and 90 of the Act).
20. The UFU consider that whilst not necessary, the clarification is desirable.

Definition of Private and Public Sector

21. At page 43 Parties are asked to consider whether "public sector employer" and "private sector employer" should be defined.
22. The UFU submit that private and public sector currently have a well understood meaning within the fire fighting industry and further definition is not necessary.

Filed for and on behalf of

United Firefighters' Union of Australia

18 November 2015