



# REPORT TO THE FULL BENCH

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

## **4 Yearly Review of Modern Awards Health Professionals and Support Services Award 2010 (AM2014/204)**

COMMISSIONER ROE

MELBOURNE, 30 OCTOBER 2015

*Four yearly Review of Modern Awards: Health Professionals and Support Services Award 2010  
- Report to the Full Bench.*

### **CONFERENCE HELD ON 29 OCTOBER 2015 IN RESPECT TO THE HEALTH PROFESSIONALS AND SUPPORT SERVICES AWARD 2010.**

[1] The HSU, AWU, Ai Group, ABI, AFEI, PHIEA, ACE, ADA, MIERG, LASA, CAA and DHAA were represented at the conference.

ITEM 1 and ITEM 41

[2] The consistent use of the terms ordinary rate and minimum hourly rate as per the Full Bench decision will be reflected in the next version of the exposure draft. It will be assumed that ITEM 1 and 41 are resolved by that revised version unless the parties advise otherwise within seven days of the issuing of the new version.

ITEM 8

[3] Following the discussion at the conference, parties who wish to comment are to do so within seven days and answer the following questions:

- a. Is any variation to the exposure draft required in respect to the list of common health professionals?
- b. If a variation is required what is the proposed variation?

[4] The Fair Work Commission will then determine if this is a substantive matter, a resolved matter or a matter where there should be a further conference.

ITEM 10

[5] It was agreed that the definition of health industry should be in the coverage clause (3.2) or in the definitions schedule and it is not necessary to have it in both places. The Fair Work Commission should ensure that the location is consistent with the approach taken in the other health awards.

ITEM 11

[6] This item appears in the summary as now agreed. However, Ai Group raised some reservations at the conference. They do not believe that 6.3(c) is a true facilitative clause. Ai Group is content for this matter to be determined by The Fair Work Commission.

ITEM 12A, 18, 31 MIERG proposals.

[7] The MIERG proposals are not supported by other parties. If MIERG wish to persist with these items they are substantive issues which will require further Full Bench proceedings. MIERG are to advise within fourteen days if they wish to proceed with these matters

[8] There will be some further discussions between the parties about MIERG proposals in ITEM 5A and MIERG will advise within fourteen days if it wishes to proceed with these matters and if so in what form.

ITEM 12A HSU proposal

[9] HSU are to advise within seven days if they wish to proceed with the proposed addition to clause 6.1(b).

ITEM 13

[10] The parties agree that there is no lack of clarity. There is no specific provision for split shifts.

[11] There is no need to vary Clause 6.4(c) and (d) of the exposure draft.

ITEM 14, 23, 25, 28, 31, 35, 40 Minimum hourly rate issue

[12] As with the nurses award it is agreed that this matter should be resolved by the addition of the words “applicable to their classification and pay point” at the appropriate points in the exposure draft where the term “minimum hourly rate” is used.

ITEM 18

[13] HSU/AWU proposal. The unions will advise within seven days if they intend to pursue this matter.

[14] ACE proposal to allow changes to rosters by agreement. HSU/AWU will respond within seven days as to whether or not further discussion is worthwhile. If not the matter is a substantive proposal which will require further Full Bench proceedings.

ITEM 19 Meal breaks

[15] Ai Group are only pursuing the second item in the summary of submissions document.

[16] Further discussions between the parties will occur on 29 October 2015. HSU/Ai Group will advise within seven days if there is any prospect of resolution. If not then it will be a substantive matter which will require further Full Bench proceedings.

[17] MIERG will respond as to whether or not they wish to proceed with their proposal once the outcome of discussions is known.

#### ITEM 22

[18] The other parties do not support the BusSA proposal. The other parties do not consider change to the exposure draft is required. BusSA is to advise within seven days if it wishes to pursue this matter.

#### ITEMS 23, 26, 27

[19] There are no separate outstanding issues covered by item 23.

[20] There are a range of issues related to span of hours and the application of penalties for shift work which are disputed and these will be substantive issues.

[21] The addition of the words “day worker” in the heading of Clause 18.1 of exposure draft introduced some uncertainty as to whether casuals are entitled to penalty payment for weekend work.

[22] The parties also agree that the current exposure draft clause 18.4 leaves it unclear whether the additional 15% is paid only for hours within span of hours or for all hours worked in the shift.

[23] The issue of whether or not penalties are cumulative is not clear in clause 18.

[24] These matters along with the other span of hours issues and the issue of weekend penalties for shift workers are not resolved and are substantive matters which will require further Full Bench proceedings. Some aspects relate to casuals.

#### ITEM 24

[25] The other parties do not agree with BusSA that there is any ambiguity in the rate to be paid to casuals on weekends in Clause 18.1(b). This issue will be removed unless BusSA advise that they wish to pursue it further within seven days.

#### ITEM 28, 29, 30

[26] Confirmed that the issue of whether or not the overtime clause applies to casuals and whether or not each day stands alone for overtime are substantive issues which are disputed. Parties agreed to discuss further and report back within 14 days if there is any prospect of consensus.

#### ITEM 32

[27] Agreed the word “termination” should be added to the heading of Part 6.

ITEM 35

[28] Resolved (see item 14) above and the other issue resolved by Full Bench (second sentence of 23.1 to be deleted)

ITEM 37

[29] HSU will review its proposal re interns and will advise within 14 days if the item is withdrawn, agreed or is a substantive matter. If it is a substantive matter HSU will clarify its proposed variation.

ITEM 40

[30] Resolved (See Item 14)

ITEM 43

[31] Agreed to add a definition in Schedule I of “trainee” “see National Training Wage schedule F”

ADDITIONAL ITEM RAISED.

[32] Ai Group also raised some concerns about the use of the words “loading” and “penalty” in the Award using Clause 19.1 as an example and they may correspond further on this issue.



COMMISSIONER

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