

Australian Industry Group

4 YEARLY REVIEW OF MODERN AWARDS

Submission

AM2014/210 Racing Industry
Ground Maintenance Award 2010
– Revised Exposure Draft

9 NOVEMBER 2015

Ai
GROUP

4 YEARLY REVIEW OF MODERN AWARDS

AM2014/210 RACING INDUSTRY GROUND MAINTENANCE AWARD 2010

1. On 30 October 2015, the Fair Work Commission (Commission) published a revised *Exposure Draft – Racing Industry Ground Maintenance Award 2014* (Exposure Draft). A revised ‘draft report’ was also published on the same date.
2. Pursuant to the Commission’s directions contained in the draft report, the Australian Industry Group (Ai Group) has identified the following concerns.

Clause 2.1 – The National Employment Standards and this award

3. The word ‘in’ should be deleted. This appears to be a drafting error.

Clause 20.2 – Notice of termination by an employee

4. Clause 20.2 should be amended as follows to rectify a drafting error:

... the employer may withhold from any money due to the employee ...

Clause 8.1 – Ordinary working hours

5. Clause 8.1(a) deals with ordinary working hours. It states that “the ordinary working hours will be 38 or an average of 38 hours per week over a four week period ...”.
6. The clause should also be amended as follows:
 - (a) The ordinary working hours will be up to 38 or an average of up to 38 hours per week over a four week period ...
7. Without this amendment, the clause purports to require casual employees to work 38 ordinary hours a week. It also ensures that the Award meets the requirements of s.147 of the Act.

8. We note that our submission was accepted by the Full Bench in a recent decision in respect of subgroup 1C – 1E awards.¹

Schedule B.2.2 – Full-time and part-time employees – weekend and public holiday penalties

9. The rates contained in Schedule B.2.2 have been calculated on the minimum hourly rate, consistent with clause B.1.2. Therefore, the reference to the ‘ordinary hourly rate’ in the second row should be replaced with ‘minimum hourly rate’. We note that this amendment has been made in Schedule B.2.1.

Schedule B.2.3 – Full-time and part-time employees – overtime

10. The rates contained in Schedule B.2.3 have been calculated on the minimum hourly rate, consistent with clause B.1.2. Therefore, the reference to the ‘ordinary hourly rate’ in the second row should be replaced with ‘minimum hourly rate’. We note that this amendment has been made in Schedule B.2.1.

Schedule B.3.1 – Casual employees – ordinary hours and penalty rates

11. The rates contained in Schedule B.3.1 have been calculated on the minimum hourly rate, consistent with clause B.1.2. Therefore, the reference to the ‘ordinary hourly rate’ in the second row should be replaced with ‘minimum hourly rate’. We note that this amendment has been made in Schedule B.2.1.

Schedule B.3.2 – Casual employees – weekend and public holiday penalties

12. The rates contained in Schedule B.3.2 have been calculated on the minimum hourly rate, consistent with clause B.1.2. Therefore, the reference to the ‘ordinary hourly rate’ in the second row should be replaced with ‘minimum hourly rate’. We note that this amendment has been made in Schedule B.2.1.

¹ [2015] FWCFB 7236 at [23] – [25].

Schedule B.3.3 – Casual employees – overtime

13. The AWU filed proposed casual overtime rates for the purposes of Schedule B.3.3 on 30 October 2015. We refer the Commission to Ai Group's response, filed on 1 November 2015, in this regard.