

Fair Work Commission  
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East Sydney NSW 2011  
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28 January 2015

**Re: AM2014/210 Exposure Draft for the *Racing Industry Ground Maintenance Award 2014***

## **AWU submissions**

The Australian Workers' Union (AWU) submits the following in relation to the Exposure Draft for the *Racing Industry Ground Maintenance Award 2014*:

1. **General issues:** We have not included submissions on drafting and technical issues already dealt with in the Full Bench Decision on 23 December 2014 on the basis that the Exposure Draft will subsequently be amended so it is consistent with this Decision.
2. **Clause 6.5 (d):** The current award only excludes casual employees engaged on night cleaning duties from the ordinary hours, penalty rate and overtime provisions. This is because they are getting a rate of 155% for this work (30% shift loading plus 25% casual loading). By including this provision as a separate sub-clause, the Exposure Draft has altered the effect of the current award to the effect that casual employees are excluded entirely from ordinary hour, penalty rate and overtime conditions. We submit clause 6.5 (d) of the Exposure Draft should be deleted and clause 6.5 (c) amended to read:

*A casual employee engaged on night cleaning duties must be paid, in addition to the casual loading of 25%, a shift allowance of 30% of the minimum hourly rate for each hour worked. The following provisions do not apply to casual employees on night cleaning duties:*

- *Clause 8 – Ordinary hours of work and rostering;*
- *Clause 13 – Penalties; and*
- *Clause 14 – Overtime.*

3. Clause 6.5 (e): A Full Bench has already determined this provision conflicts with the NES. We submit it should be deleted from the Exposure Draft.
4. Clause 8.1 (f): The word “when” can be deleted so this reads: “...of ordinary work once fixed are not to be altered...”
5. Clause 10.7 (c): It does appear this payment is meant to arise in circumstances whereby the employer is at least partly to blame for the delay. We submit the clause could be amended to read: “...through circumstances within the reasonable control of the employer....”
6. Clause 11.2 (d): It does appear this type of allowance would normally be regarded as an expense related allowance and adjusted with CPI.
7. Schedule B.2.1: The 3<sup>rd</sup> footnote erroneously indicates this penalty rate can apply to work on the weekend. Clause 8.2 (a) clearly excludes work on Saturdays and Sundays. The footnote should be amended to read:

***Work outside of ordinary hours due to water restrictions means work done from Monday to Friday outside the hours of 6:30am to 6:30pm where the employer is subject to water restrictions (see clause 8.2 (a) (ii)). “Water restrictions” has the meaning in clause 8.2 (b).***

8. Schedule B.2.2: Contrary to most other Exposure Drafts, overtime rates have not been included for this award. We submit the inclusion of ordinary weekend and public holiday rates in Schedule B.2.2 without including higher overtime rates will create confusion. The overtime percentages which should be included are:
  - Monday to Saturday: 150% for 2 hours and then 200% (of the ordinary hourly rate)
  - Sunday: 200% of the ordinary hourly rate
  - Public holidays: 250% of the ordinary hourly rate

In addition, the heading for Schedule B.2.2 should specify that the rates are for ordinary hours.

9. Schedule B.3.1: It is unclear why the following ordinary time rates have not been included for casuals as per Schedule B.2.1:
  - Morning work (125% of the casual hourly rate)
  - Evening work (115% of the casual hourly rate)
  - Work outside of ordinary hours due to water restrictions (150% of the casual hourly rate)

10. Schedule B.3: We submit a table containing the following casual ordinary time weekend and public holiday penalties should be included:

- Saturday (125% of the casual hourly rate)
- Sunday (175% of the casual hourly rate)
- Public holiday (250% of the casual hourly rate)

11. Schedule B.3: We submit a table containing the following casual overtime rates should be included:

- Monday to Saturday: 150% for 2 hours and then 200% (paid on the casual hourly rate)
- Sunday: 200% of the casual hourly rate
- Public holidays: 250% of the casual hourly rate



Stephen Crawford

**SENIOR NATIONAL LEGAL OFFICER**