



# REPORT TO THE FULL BENCH

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

(AM2014/216)

SENIOR DEPUTY PRESIDENT HAMBERGER

SYDNEY, 30 NOVEMBER 2015

*4 Yearly Review of Modern Awards - Waste Management Award 2010.*

[1] A conference was held on 30 October 2015 attended by representatives from the following organisations:

- The Transport Workers' Union of Australia (TWU);
- The Australian Workers' Union (AWU);
- The Waste Contractors & Recyclers Association of NSW(WCRANSW);
- The Construction, Forestry, Mining and Energy Union (CFMEU);
- The Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union (AMWU)
- The Australian Federation of Employers and Industries (AFEI);
- The Australian Industry Group (AIG); and
- Australian Business Industrial (ABI) and NSW Business Chamber (NSWBCL);

[2] The parties discussed the exposure draft of the *Waste Management Award 2010*<sup>1</sup> (the Award) published on 18 December 2014. Possible changes to the exposure draft that had the general support of the parties are summarised in Attachment A. Possible changes which did not have general support (and will therefore need to be dealt with by a Full Bench) are summarised in Attachment B. The parties have requested that any substantive variations sought by an interested party should be referred to a separately constituted Full Bench. Matters in dispute that have already been referred to other Full Benches are summarised at Attachment C.



SENIOR DEPUTY PRESIDENT

## Attachment A

- The reference in clause 3.5(a) to ‘the *Fair Work Act 2009* (Cth)’ should be replaced with ‘the Act’;
- a reference to clause 8.6 ‘make-up time’ should be included in the list of facilitative provisions in clause 5.2;
- the wording in clause 6.4 (a) (ii) should be replaced with the wording from clause 13.6 in the current award;
- in clause 6.4(a)(ii) the words ‘made pursuant to 6.4(c)’ should be inserted after ‘The terms of the agreement’ in clause 6.4(d);
- in clause 10.1 the reference to ‘11.2(a)’ should be replaced with ‘11.2(b)’;
- the word ‘at’ needs to be deleted after ‘the employer’ in clause 13.4;
- replace the wording in clause 16.3 with the wording in clause 30.3 of the current award;
- clause 16 should be revised to restore the structure in clauses 30 and 31 of the current award;
- in clause 16.7(b) insert ‘referred to in clause 16.7(a) after ‘minimum hours’;
- in clause 16.7(d) substitute reference to ‘clause 16.7(a) with ‘clause 16.7(a) – (c);
- in clause 16.9(c) move ‘if requested by the employee’ such that it appears after ‘for the overtime’;
- in clause 20.6(b) the reference to clause 8 should be to clause 16;
- in clause 20.6(d) the reference to clause 20.6(a) should be to clause 20.6(c);
- clause 20.6(e) should be deleted;
- the wage table at A .2 .1 should include the notation currently appearing at clause 10.1 of the exposure draft (to note that ordinary hourly rate includes all-purpose industry allowance).

## **Attachment B**

- Insert requirement in clause 6.24 that employer notify employee of their classification at the time of engagement;
- amend clause 9.2(a) to allow for paid meal breaks when an employee is working overtime;
- a new crib time provision in clause 15;
- insert a provision in clause 15 to provide for a paid meal break of 20 minutes for shift workers;
- clause 16.7 (clause 30.4 of the current Award) identify that employees recalled to work overtime must be paid at overtime rates;
- delete reference in clause 16.8 (clause 31.2 of the current award) that the provision is 'subject to any custom now prevailing under which employees are required regularly to hold themselves in readiness for call-back';
- include a new provision relating to additional leave for shift workers;
- allow employer and the majority of employees to agree to a substitute public holiday.

## **Attachment C**

- The issue of casual conversion is to be dealt with by the casuals Full Bench;
- the issue of the inclusion of accident pay provisions should be dealt with by the transitional provisions Full Bench;
- the issue of part day public holidays should be dealt with by the public holidays Full Bench.

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<sup>1</sup> MA000043.