



DIRECTIONS

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

4 yearly review of modern awards – various Group 3 awards (AM2015/6 and AM2015/7)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 21 APRIL 2015

Following the hearings in relation to Group 3 awards on 30 March 2015 it is directed that:

For each of the awards listed below, the substantive issues in relation to each award outlined in the Schedules A and B attached will be dealt with by a separate Full Bench:

1. A Full Bench of Vice President Catanzariti, Deputy President Kovacic and Commissioner Johns will hear and determine the substantive issues raised in respect of the following awards:

MA000075	<i>Educational Services (Post-Secondary Education) Award 2010</i>	AM2014/224
MA000076	<i>Educational Services (Schools) General Staff Award 2010</i>	AM2014/225
MA000006	<i>Higher Education Industry—Academic Staff—Award 2010</i>	AM2014/229
MA000007	<i>Higher Education Industry—General Staff—Award 2010</i>	AM2014/230

These Education group matters will be allocated matter number **AM2015/6**.

Any technical and drafting issues in relation to the exposure drafts issued for the above awards will be dealt with by the 4 Yearly Review Group 3 Full Bench.

2. A Full Bench of Vice President Watson, Deputy President Smith and Commissioner Lee will hear and determine the substantive issues raised in AM2014/246 in respect of the *State Government Agencies Administration Award 2010* [MA000087]: These substantive matters will be allocated matter number **AM2015/7**.

Any technical and drafting issues in relation to the exposure draft issued for the above award will be dealt with by the 4 Yearly Review Group 3 Full Bench.

3. Each Full Bench will issue further directions accordingly.

PRESIDENT

SCHEDULE A—AM2015/6—EDUCATION GROUP ISSUES

Schedule A.1—Educational Services (Post-Secondary Education) Award 2010

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE
1.	IEUA	Sub-02/03/15	-	Postgraduate qualifications Propose to update the language used to describe postgraduate qualifications throughout the award.	p.1
2.	FWO	Corro-02/03/15	3.1 and Sched C	Teaching qualifications FWO has had enquiries about what classification an employee is who does not have teaching qualifications and is teaching an accredited course.	p.5
3.	IEUA	Sub-02/03/15	10.6(a)	Casual or sessional employees - deemed continuous Propose to vary this clause by extending the 8 weeks to 12 weeks.	p.1
4.	IEUA	Sub-02/03/15	11	Notice period for casual employees Propose to include notice provisions for continuous casuals.	p.1
5.	NTEU	Sub-02/03/15	14.2	PHD point for casual employees Higher casual rates apply if an employee has a doctoral qualification OR full subject coordination duties. This reflects A2 and A6 in the full-time scale.	p.6
6.	IEUA	Sub-02/03/15	14.5	Daily rate for casuals Propose to remove the daily rate for casuals and only have an hourly rate.	p.1
7.	BusSA	Sub-02/03/15	21.1	Afternoon shift penalty Clause 21.1(a) provides that a general staff day worker can work until 8 pm up to 8 day within a 28 day cycle without attracting overtime provisions. Ambiguity with shiftwork clause where employees who work until 8 pm entitled to a shift penalty.	p.6
8.	BusSA	Sub-02/03/15	24.1	Minimum period for overtime Clause states that the minimum payment is 30 mins per week. Party's view is that is too onerous.	p.6
9.	IEUA	Sub-02/03/15	Schedule C	Recognition of experience Propose to vary classifications to recognise a wider range of settings including experience as a casual teacher teaching relevant subjects to adult or secondary students.	p.1

Schedule A.2—Educational Services (Schools) General Staff Award 2010

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE
1.	GSV and Independent Schools		10.5(c)	Minimum period of engagement for coaches and assistant coaches Seeks to add a minimum period of engagement of 1½ hours for coaches and assistant coaches	Transcript [80]
2.	GSV and Independent Schools	Sub - 02/02/15	15.3	Junior rates Parties seek that junior rates be introduced into Award for sports coaches and support persons for coaches. Seek introduction of more classifications for these types of employees at grades 1, 2 & 3	p.1
3.	GSV and Independent Schools	Sub - 02/02/15	22	Hours of work Parties seek change in ordinary hours of work	p.1
4.	IEUA	Sub - 02/03/15	22.2 and 16.6	Boarding house employees Party concerned employees employed in boarding houses have been disadvantaged by award. Exemptions in 22.2 from penalties and 16.6 sleepover allowance are harsh and unfair. Submit exclusions should be removed	p.1
5.	Independent Schools Associations	Sub - 02/03/15	24.1	Breaks - break after 5 hours Seeks variation to clause 24.1 to ensure meal break commences no later than five hours after the employee commenced work on the day.	Point 1, p.1
6.	Independent Schools Associations	Sub - 02/03/15	24.2	Breaks - variation to timing of breaks Seeks variation to clause 24.2 to ensure alternative arrangement for classroom support services employees is at direction of employer	Point 2, p.1
7.	BusSA	Sub - 02/03/15	25.4(d)	Shiftwork rostering Requirement for employers to provide 48 hours' notice in an emergency should be removed.	p.6

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE
8.	GSV and Independent Schools	Sub - 02/02/15	26	Penalty rates Parties seek reduction in penalty rates for work carried out before and after ordinary school hours and on weekends	p.1
9.	Independent Schools Associations	Sub - 02/03/15	Schedule B	Classifications - instructional services employees Submit that a separate classification be established for persons employed to undertake coaching or training in sporting activities	Point 3, p.1

Schedule A.3—Higher Education Industry—Academic Staff-Award 2010

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE
1.	NTEU	Sub - 02/03/15	4	Coverage of research institutes Seek to vary award to cover general, technical and research staff in medical, health and science research institutes.	p.6
2.	AHEIA	Sub - 02/03/15	4.3	Coverage Propose to delete subclause, no longer applicable.	
3.	Bond University	Sub - 20/04/15	10.2	Restriction on use of fixed-term contract Propose to include Bond University as an employer covered by clause 10.2. NOTE: This submission was made after the Conference on 30 March 2015	
4.	AHEIA	Sub - 02/03/15	11.3	Fixed-term employment categories Add new paragraph (f) to provide for where an area is under review.	Attach 1
5.	AHEIA	Sub - 02/03/15	12.4	Fixed-term expiry severance pay Propose severance pay provisions upon expiration of fixed term employment be deleted.	Attach 1
	Universities	Sub - 02/03/15			Para 1
6.	AHEIA	Sub - 02/03/15	17	Industry specific redundancy provisions Delete clause 17. Clause 15.2(b) to apply to all employers.	Attach 1
7.	NTEU	Sub - 02/03/15	New provision (Part 4, new clause?)	ICT allowances Apply for allowances to be paid with respect to the costs of establishing, maintaining and using such ICT facilities when a worker is required to do so in order to satisfactorily perform their duties.	p.6
8.	NTEU	Sub - 02/03/15	New provision (Part 4, new clause?)	Professional and Discipline Currency Allowance No provision for remuneration for casual staff for the specific work required to maintain currency in their discipline and relevant pedagogy, or to keep abreast of extensive institutional policies, both of which are inherent requirements of the job (as reflected in the fact that full time academics are paid to do this work.	p.2
9.	NTEU	Sub - 02/03/15	New provision (Part 5?)	Hours of work Propose to insert term providing ordinary hours of work for academic staff.	p.1

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE
10.	NTEU	Sub - 02/03/15	18 and schedule A	<p>Classification of academic staff</p> <p>NTEU propose a variation to provide that in the absence of a bona fide academic promotion system (and only in that circumstance) academic employees may seek to enforce the correct classification and rate of pay for the work that they perform on the basis of the Minimum Standards for Academic Levels (Sched A).</p>	p.3

Schedule A.4—Higher Education Industry—General Staff-Award 2010

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE
1.	NTEU	Sub - 02/03/15	4	Coverage of research institutes Seek to vary award to cover general, technical and research staff in medical, health and science research institutes .	p.6
2.	AFEI	Sub - 05/03/15	4	Coverage Seeks to clarify interaction between this award and other industry awards for university and student union organisations that are engaged in multiple industries.	p.2
3.	AHEIA	Sub - 02/03/15	10.3	Fixed-term employment categories Add new paragraph (f) to provide for where an area is under review.	Attach 2
4.	AHEIA	Sub - 02/03/15	11.4	Fixed-term expiry severance pay Propose severance pay provisions upon expiration of fixed term employment be deleted.	Attach 2
	Universities	Sub - 02/03/15			Para 1
5.	NTEU	Sub - 02/03/15	15	Rates of pay - linking to classification descriptors Currently no words stating that classifications (sched B) are the determinant for classifying general staff. Seek to correct an anomaly omitted in error from the final General Staff Award in 2010.	pp.4-5
6.	NTEU	Sub - 02/03/15	18 new provision	ICT allowances Apply for allowances to be paid with respect to the costs of establishing, maintaining and using such ICT facilities when a worker is required to do so in order to satisfactorily perform their duties.	p.6
7.	NTEU	Sub - 02/03/15	23	Working hours and overtime Seek variation that imposes an obligation on employers to take active steps to ensure staff are only working additional hours if they are appropriately compensated through overtime payments, time off in lieu or similar.	p.4
8.	AMWU	Sub - 02/03/15	15.2 / Sched G	Apprentices Intends to propose changes to apprenticeship rates	Para 2

List of abbreviations (in alphabetical order)

ABI and NSWBC	Australian Business Industrial and New South Wales Business Chamber Ltd
AEU	Australian Education Union
AFEI	Australian Federation of Employers and Industries
AHEIA	Australian Higher Education Industrial Association
AMWU	Australian Manufacturing Workers Union
AWU	The Australian Workers' Union
BusSA	Business SA, South Australia's Chamber of Commerce and Industry
FWO	Fair Work Ombudsman
GSV and Independent Schools	Girls Sport Victoria and Ors (Camberwell Girls Grammar School; Carey Grammar; Caulfield Grammar; Fintona Girls School; Firbank Grammar School; Genazzano College; Ivanhoe Girls Grammar; Korowa Anglican Girls School; Lauriston Girls School; Loreto Toorak; Lowther Hall Anglican Grammar School; Melbourne Girls Grammar; Mentone Girls Grammar School; Methodist Ladies College; Our Lady of Mercy College; Our Lady of Sion College; Presbyterian Ladies College; Brighton Girls School; Sacre Coeur; St Catherine's School; St Margaret's School; Shelford Girls Grammar; Siena College; Star of the Sea College; Strathcona Baptist Girls Grammar School; Toorak College).
IEUA	Independent Education Union of Australia
Independent Schools Associations	<ul style="list-style-type: none"> • Association of Independent Schools of New South Wales • Association of Independent Schools of South Australia • Association of Independent Schools of Western Australia • Independent Schools Queensland • Independent Schools Tasmania • Independent Schools Victoria
NTEU	National Tertiary Education Industry Union
UV	United Voice
Universities	University of Melbourne, Monash University, University of Sydney, University of New South Wales, Australian National University, Adelaide University, and University of Western Australia.

SCHEDULE B—AM2015/7—STATE GOVERNMENT AGENCIES ADMINISTRATION AWARD 2010

ITEM	PARTY	DOCUMENT	CLAUSE (current award)	SUMMARY OF ISSUE	THEIR REFERENCE
1.	CPSU	Sub-27/02/15	1	Title Propose that the award be titled <i>State Government Agencies Award</i>	Item 2.1
2.	CPSU	Sub-27/02/15	13; 14 and Schedule B	Classifications; Minimum wages; and Position Statements Vic Roads road worker classification renamed as ‘Field work stream’ needs to be included in the classification structure.	Item 2.2
3.	CPSU	Sub-27/02/15	25	Personal/carer’s leave and compassionate leave Supplement NES with superior public sector standards for sick leave; and compassionate leave.	Item 2.4
4.	CPSU	Sub-27/02/15	28	Parental leave Supplement NES with superior public sector standard for parental leave.	Para 2.5

List of abbreviations (in alphabetical order)

CPSU	The Community and Public Sector Union
NES	National Employment Standards