



# REPORT

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

## **4 yearly review of modern awards** (AM2014/232)

### **LABOUR MARKET ASSISTANCE INDUSTRY AWARD 2010** [MA000099]

JUSTICE ROSS

MELBOURNE, 6 JULY 2016

*Four yearly Review of Modern Awards: Labour Market Assistance Industry Award 2010 – Report*

[1] On 30 June 2016<sup>1</sup>, a conference was held to discuss the revised [summary of submission](#) published on 27 June 2016. The following items were discussed which can be found in the Transcript:

- Item 1: note to be redrafted:

*NOTE: Where there is no classification for a particular employee in this award, the employer and employee may be covered by an award with occupational coverage*

- Item 2: all parties in attendance at the conference were content with the wording of clause 6.3 of the Exposure Draft. Australian Federal of Employers & Industries have 7 days' to confirm their position.
- Item 3: agreed, no change is required.
- Item 4: agreed, no change is required.
- Items 5, 6 and 7: being dealt with by the Part-time and Casual Full Bench.
- Items 8 & 10 (clause 11.2(b)(ii)): general agreement that clause in the Exposure Draft reflects the position in the current award, however the circumstances in which overtime is to be paid is not clear. The parties are to discuss this issue further and report back in 21 days.
- Item 9: change proposed by Australian Business Industrial & NSW Business Chamber is agreed by all parties.

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<sup>1</sup> [Transcript – 30 June 2016](#)

- Items 11 & 12: generally agreed that clause 20.2 of the Exposure Draft should be amended to be consistent with clause 14.2(c). Clause 20.2 to read:

‘An employee who works on a public holiday would be paid 250% of the minimum hourly rate for all work performed during ordinary hours of work’.

The second issue concerns clause 14.2(c). It is generally agreed that clause 14.2(c) of the Exposure Draft reflects the position under the current award, however it is not clear when the 350% rate will be payable. In particular, it is not clear what is meant by ‘work performed outside ordinary hours of work’.

‘Ordinary hours of work’ are defined in clause 8. Clause 8.1 states: ‘ordinary hours of work will be no more than an average of 38 hours per week... not exceeding 10 hours in any one day’. Clause 8.2 states ‘ordinary hours are worked between 6:00 am and 8:00 pm, Monday to Friday’.

The parties are to discuss this issue further and report back in 21 days.

- Item 13: being dealt with by the Annual Leave Full Bench.
- Item 14: Jobs Australia has [filed](#) some proposed changes to the classification definitions. Interested parties are to file a response to the Jobs Australian proposal within 21 days.
- Item 15: all parties agree to the wording proposed by Jobs Australia.

### Next steps

[1] Parties are to have further discussions in relation to items 8 & 10, 11 & 12 and 14.

[2] A joint report of those discussions is to be filed by **4:00 pm Friday, 22 July 2016** to [amod@fwc.gov.au](mailto:amod@fwc.gov.au). The joint report should set out the extent of the agreement between the parties and the process proposed for resolving any outstanding issues, for example, determined on papers; further conference; or oral hearing.

[3] The Australian Federation of Employers & Industries will have until **4:00 pm Friday, 8 July 2016** to advise if they intend to press the point raised at paragraphs 26 – 27 of their 15 April 2016 submission, in relation to clause 6.3 of the Exposure Draft.



PRESIDENT

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