



# REPORT TO THE FULL BENCH

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

## **WINE INDUSTRY AWARD 2010**

(AM2014/249) [MA000090]

DEPUTY PRESIDENT CLANCY

MELBOURNE, 25 AUGUST 2016

*Wine Industry Award 2010*

## **WINE INDUSTRY AWARD 2010**

[1] A conference was held in Melbourne, with a video link to Sydney and Adelaide on 8 August 2016 attended by representatives of:

- Australian Federation of Employers and Industries (AFEI)
- Ai Group
- National Farmers Federation (NFF)
- South Australian Wine Industry Association (SAWIA)
- The Australian Workers' Union (AWU)
- United Voice

[2] The parties discussed the exposure draft of the *Wine Industry Award 2015* as published on 29 July 2016 and the Summary of Submissions dated 26 July 2016 completed by the Commission and worked through the items outlined in Attachments B and C of the Report to the Full Bench dated 3 June 2016.

[3] Further proposed variations to the exposure draft that were agreed by the parties are summarised in Attachment A.

[4] Further proposed variations from the Summary of Submissions that are not agreed are summarised at Attachment B.

[5] Items from the Summary of Submissions which remain under consideration by the parties and may benefit from further discussions are summarised at Attachment C.

[6] It is noted that items 74 and 75 have been referred to a separately constituted Full Bench of the Commission.

[7] As to item 77, the parties expressed the view that a comparison of the definition of “*wine industry*” in this Award and the definition of “*wine industry*” in others should be undertaken by the Commission, including an assessment of any inconsistencies.

[8] A query was raised in relation to the wording of the exposure draft for the *Wine Industry Award 2015*, as published on 29 July 2016 and the extent to which it reflected agreed positions in relation to items 15 and 16.

[9] As to item 15, the parties submitted that in previous discussions wording for Clause 6.5(a) was agreed, such that the exposure draft of the *Wine Industry Award 2015*, as published on 29 July 2016, should be amended to read “A *casual employee is an employee who is engaged and paid as a casual employee*”.

[10] As to item 16, the parties submitted that there is agreement for the insertion of words at the start of Clause 6.5(a), such that the exposure draft of the *Wine Industry Award 2015*, as published on 29 July 2016, should be amended to read “*Except in the case of pieceworkers, for each ordinary hour worked, a casual employee must be paid...*”.



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## **Attachment A**

Items 25 and 30-32. Parties agreed to the following words proposed by the AWU being inserted at the start of Clause 8 and that these would resolve these four (4) items– “The following provisions in clause 8 apply to day workers and shift workers except for clause 8.5”.

## **Attachment B**

Item 35. While wording for Clause 9.3(a) is agreed, wording of Clause 9.4 is not yet agreed. The issue with Clause 9.4 is that the SAWIA and AiGroup support the wording in the exposure draft, the AWU and NUW submit the loading should be applied to the rate then applying to the employee and the NFF and AFEI do not consider the loading to be a cumulative loading.

Item 49. The SAWIA, AFEI and AiGroup support the wording in sub-clause 16.2(d) of the exposure draft, although the SAWIA also advised that its members consider this sub-clause redundant because they no longer engage in the work it provides for. The AWU submitted the loading should be applied to the rate then applying to the employee and while the NUW supported this position, it also indicated a belief that the work the sub-clause provides for is not very extensive. The NFF does not consider the loading to be a cumulative loading but does not hold a strong view about the sub-clause.

Item 53. This substantive claim regarding Overtime is not agreed and resolution of it depends on the outcomes in the Casual and Part-time employment Common issue proceedings.

## **Attachment C**

Item 62. The issue relating to this sub-clause has also arisen in the *Manufacturing and Associated Industries and Occupations Award 2010* (Manufacturing Award). The resolution of it may depend on the outcome in the Manufacturing Award. The parties agree that further discussions may resolve the issue once the position in the Manufacturing Award becomes clearer.

Items 71 and 72. Table B.2.3 outlines overtime rates for Casual adult employees and these are agreed by the NUW and the NFF and are not opposed by the AiGroup, AFEI and Business SA. Responses regarding the rates are still required from the AWU and SAWIA.