

Fair Work Commission
Level 10, Terrace Tower, 80 William Street
EAST SYDNEY NSW 2011
Via email: AMOD@fwc.gov.au

21 August 2018

Re: [2018] FWCFB 4175 – AM2014/250 and others

BACKGROUND

1. The Full Bench of the Fair Work Commission ('**FWC**') published the *4 yearly review of modern awards – Award stage – Group 4 awards (AM2014/250 and others) Decision*¹ ('**Decision**') on 7 August 2018.
2. The Full Bench has invited parties to file submissions on a number of outstanding matters and provisional views.
3. Of the Awards to which this feedback has been invited, the Australian Workers' Union ('**AWU**') is an interested party in the following:
 - 3.1. *Cemetery Industry Award 2010*;
 - 3.2. *Food, Beverage and Tobacco Manufacturing Award 2010*;
 - 3.3. *Funeral Industry Award 2010*; and
 - 3.4. *Pest Control Industry Award 2010*.
4. The submissions of the AWU are below.

Cemetery Industry Award 2010 (& Others)

United Voice Proposal re: Casual Loading

5. The AWU supports the submissions of United Voice addressed in paragraphs [158] to [161] of the Decision.
6. The AWU notes that the amendment proposed by United Voice is required as a result of a drafting issue and should not be controversial.

¹ [2018] FWCFB 4175

7. If, however, a party takes exception to the amendment as proposed, we make the following brief submission.
8. The casual loading is payable for all hours worked by a casual employee. It has consistently been held that the casual loading is payable to compensate casual employees for entitlements under the award and the NES that casual employees are excluded from, such as paid leave². As the exclusion from such entitlements is not restricted to ordinary hours, neither is the compensation payable.
9. Additionally, the current award provision³ does not restrict the payment of the casual loading to ordinary hours.

Food, Beverage and Tobacco Manufacturing Award 2010

Item 25 – Casual Employment

10. The AWU supports the provisional view of the Full Bench at [249].

Funeral Industry Award 2010

Item 12 – Calculation of Overtime for Shiftworkers

11. The AWU accepts the provisional view of the Full Bench at [275] and [276].
12. In relation to the proposed table at Schedule A.1.1, the AWU proposes that, for the purposes of clarity, the column titled *Day shift* should instead be titled *Minimum hourly rate*.

Pest Control Industry Award 2010

Item 2 – Meal Allowance and Country Work

13. The AWU supports the provisional view of the Full Bench at [332].

Yours Faithfully,



Zachary Duncalfe
NATIONAL LEGAL OFFICER
The Australian Workers' Union

² Australian Industrial Relations Commission, M1913 Dec 1572/00 S Print [T4991](#)

³ *Cemetery Industry Award 2010, 10.3(b)*