

**From:** Jennifer Zadel [<mailto:JenniferZ@ef.org.au>]  
**Sent:** Friday, 21 April 2017 4:49 PM  
**To:** Chambers - Cirkovic C  
**Cc:** Jakov Miljak  
**Subject:** Re: AM2014/279 Pest Control Award - 4 yearly review

Dear Associate,

**Re: AM2014/279 Pest Control Award – 4 yearly review**

The following submissions are made pursuant to the request of Commissioner Cirkovic on 29 March 2017 concerning the *Pest Control Award 2010* matter number AM2014/279 of the 4 yearly review.

These submissions seek to clarify AFEI's positions in relation to a number of outstanding technical and drafting issues which remain in contention.

*Item 2 – Country work meal allowances*

AFEI is of the view the allowance under clause 17.3(c)(iv), of \$8.45 for "each meal", is payable in circumstances where the allowance under clause 17.3(c)(ii), of \$90.44 per night for lodging and "all meals", is not payable.

Following, AFEI does not agree with the amendment sought by the AWU in relation to this clause.

*Item 5 – Annual leave loading*

AFEI agrees with the AWU that the loading under clause 22.3(b) of the exposure draft is calculated using the following operation: (17.5% of the minimum rate) + industry and first aid allowance.

AFEI does not agree with the AWU proposal to change the reference to the "industry allowance" to the "leading hand allowance" in the exposure draft. AFEI considers such a variation would amount to a substantive change from the current award.

AFEI is of the view the AWU has not provided sufficient reason for any finding that the AIRC, during award modernisation, included a reference to the "industry allowance" as an error and that the reference was intended to be to the "leading hand allowance".

The AWU relies on the previous NSW *Pest Control Industry (State) Award* which included reference to the leading hand allowance in calculating annual leave loading. AFEI considers that this reference is unpersuasive taking into account:

1. the current award did not adopt the wording using in the NSW award annual leave loading provisions (notably, the current award references the first aid allowance whereas the NSW award clause did not);
2. other state awards do not include any reference to the leading hand allowance when calculating annual leave loading (e.g. *Pest Control Industry (Victoria) Award 2000*, *Pest Control Industry (Western Australia) Award 1982*, etc); and
3. the purposes of industry and leading hand allowances are different – an industry allowance is typically payable to all employees across an industry for all hours worked

to compensate for the nature of work in the industry, whereas a leading hand allowance is payable only to those who are undertaking work as a leading hand.

AFEI agrees that the award does not otherwise make any reference to an industry allowance.

AFEI submits that it appears the phrase “*industry allowance*” was erroneously included in the annual leave loading clause. The reference to “*industry allowance*” should be removed. It should not be replaced with a different allowance.

Kind regards,

**Jennifer Zadel | Senior Workplace Relations Consultant**

**Australian Federation of Employers and Industries**

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