

IN THE FAIR WORK COMMISSION

Matter Number:

AM2014/289



Submissions of the AMWU

Water Industry Award 2016 – Exposure Draft

About the Australian Manufacturing Workers' Union

The Australian Manufacturing Workers' Union (AMWU) is registered as the “Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union”. The AMWU represents members working across major sectors of the Australian economy, including in the manufacturing sectors of vehicle building and parts supply, engineering, printing and paper products and food manufacture. Our members are engaged in maintenance services work across all industry sectors. We cover many employees throughout the resources sector, mining, aviation, aerospace and building and construction industries. We also cover members in the technical and supervisory occupations across diverse industries including food technology and construction. The AMWU has members at all skills and classifications from entry level to Professionals holding degrees.

The AMWU's purpose is to improve member's entitlements and conditions at work, including supporting wage increases, reasonable and social hours of work and protecting minimum award standards. In its history the union has campaigned for many employee entitlements that are now a feature of Australian workplaces, including occupational health and safety protections, annual leave, long service leave, paid public holidays, parental leave, penalty and overtime rates and loadings, and superannuation.

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A. General Observations

1. This submission is made pursuant to the directions of His Honour Justice Ross of 26 August 2016¹ and relates to drafting and technical issues arising out of the Exposure Draft (**Exposure Draft**) of the *Water Industry Award 2016 (the Present Award)* published on 3 November 2016.
2. The AMWU has an interest in the proceedings, with coverage under its rules for members covered by the Present Award.
3. To the extent that variations to the Present Award serve to aid comprehension and clarify entitlements, the AMWU supports the form and content of the Exposure Draft.
4. In circumstances where the Exposure Draft introduces, removes or alters previous content in a manner which affects meaning, effect or clarity, the AMWU identifies the offending feature, and where appropriate suggests an alternative.
5. This submission does not intend to deal with matters that are subject to a common claim, nor with variations of a substantive nature.

B. Drafting and Technical Matters

6. Clause references appearing below, unless otherwise specified, are references to Exposure Draft clauses.

Clause 2 – Definitions

7. The definition of *default fund employee* has been removed. The definition was inserted by decision of the Full Bench² and therefore should be retained.
8. In response to the question at page four of the Exposure Draft, the AMWU does not oppose the suggested amendment.

Clause 16.3

9. Clause 16.3(c)(v) contains a minor typographical error in that “and” is used in place of “an” in two instances within the first sentence.
10. The first bullet point in clause 16.3(c)(v) concludes with “and” when it should conclude with “or”.

Clause 18.5

11. The parties are asked to comment on the interaction between clause 18.5 and clause 16 (presumed to be Clause 26) of the Exposure Draft.

¹ [2016] FWC 6062

² [2013] FWC FB 10016

12. Clause 26 imposes consultation obligations that are additional to clause 18.5. This was made clear by the Full Bench³. To the extent that this is not clear, clause 18.5 could be modified to the following effect:

18.5 Subject to clauses 18.6, 18.7 and 18.8, an employer must not change the structure of a roster or implement a new roster unless:

- (a) all affected employees are given at least four weeks' notice of the change, or of the new roster; or*
- (b) all affected employees agree; and*
- (c) the requirements of Clause 26 – Consultation have been met.*

Clause 19.4

13. The substitution of “*double time*” for the term “*minimum hourly rate*” alters the manner of payment. The rate payable in the context of clause 19.4 should be the loaded rate.

Clause 23

14. The substitution of “*double time*” for the term “*minimum hourly rate*” alters the manner of payment. The rate payable in the context of the clause should be the loaded rate.

Clause 26 - Overtime

15. Clause 26.2(g) uses “*computing*” in place of “*calculating*” as it appears in the Present Award.
16. Clause 26.2(g) should retain the word “*calculating*”.

**AUSTRALIAN MANUFACTURING WORKERS' UNION
18 JANUARY 2017**

³ *Consultation clause in modern award* [2013] FWCFB 10165. See in particular para [50].