

IN THE FAIR WORK COMMISSION

Matter No: AM2014/65

Title: Four Yearly Review of Modern Awards
Ambulance and Patient Transport Industry
Award

EXPOSURE DRAFT COMMENTS

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Comments on Exposure Draft

1. The Health Services Union [HSU] makes these brief comments in relation to the amended Exposure Draft of the Ambulance and Patient Transport Industry Award published on 9 September 2016.

Types of Employment - Part-time employees

2. Clause 6.4 of the exposure draft has omitted the sub-clause which provides that, *'the provisions of clause 31 – Public holidays will apply to part-time employees'* (sub-clause 10.4(e) in the Modern Award). The HSU sees no reason for this omission and is of the view that this sub-clause should be retained in the exposure draft.

Types of Employment – Casual employment

3. Sub-clause 6.5(a) in the exposure draft provides that *'A casual employee is an employee who is engaged and paid as a casual employee'*. This sub-clause has omitted the phrase, *'but will not include a part-time or full-time employee'*, as is provided in sub-clause 10.5(a) in the Modern Award. The HSU is of the view that this omission represents a significant and substantive change to the clause, and that the words, *'but will not include a part-time or full-time employee'* should be returned to sub-clause 6.5(a) in the exposure draft.

Minimum Wages

4. Clauses 10.2 – 10.4 of the exposure draft sets out the minimum wages under the Award, in three separate tables. As the layout of these tables, divided by year of service, is quite different from clause 14.1 of the Modern Award, which provides only one table, the Commission may wish to consider an introductory sentence in this clause explaining the layout.

On Call

5. In clause 14.5 of the Exposure Draft, the sub-clause providing for the on-call allowance has been moved to sub-clause (g) – at the end of the clause. By contrast, in clause 25 of the Modern Award, the sub-clause providing for an on call allowance is at the front of the clause. This change means that one has to read until the end of the On Call clause before it is clear that an allowance is payable. The HSU is of the view that sub-clause (g) should be returned to the front of the clause for ease of understanding.

Annual Leave – Quantum of Annual Leave

6. The HSU notes that the reference in clause 15.2 of the exposure draft to the Decision [2015] FWCFB 3023, paragraph [53], is incorrect. That reference is concerned with clause 30.6 of the Modern Award – Illness during annual leave. It appears that the correct reference is to paragraph [13] of that decision.



Payment for annual leave

7. The HSU believes the term '*ordinary hourly rate*' has been inserted incorrectly into clause 15.5(a) of the exposure draft.
8. Clause 15.5(a) provides that '*Before the start of annual leave, the employer must pay the employee for the employee's ordinary hours of work in the period at the employee's **ordinary hourly rate**. This includes allowances, shift penalties, or overaward payments which would have been received had the employee not been on leave*' (our emphasis).
9. In the Modern Award, clause 30.4 provides that '*Before going on annual leave, an employee will be paid the amount of wages they would have received for ordinary time worked had they not been on leave during that period. This includes any allowances, loading, shift penalties or overaward payments which would have been received had the employee not been on leave*'.
10. The term '*ordinary hourly rate*' has been used incorrectly in this clause, as the clause provides that the rate of pay should include not only all purpose allowances, but all payments an employee would have received had they not been on leave. The HSU is of the view that the term '*ordinary hourly rate*' in this clause should be removed, and replaced with the term '*ordinary pay*', or another appropriate term.

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