

IN THE FAIR WORK COMMISSION

Matter No.: AM2014/75 & 268 4 yearly review of modern awards –
Manufacturing and Associated Industries and Occupations Award
2010 and Food, Beverage and Tobacco Manufacturing Award 2010



Submission of the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)

4 Yearly Review of Modern Awards

COVER SHEET

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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Introduction

1. The Australian Manufacturing Workers' Union (AMWU) seeks leave to file the following submission in response to the AiGroup's submission 20 August 2018 regarding "meal breaks."¹
2. The AMWU understands that the Australian Workers' Union (AWU) and the Electrical Trades Union (ETU) also support this submission.
3. This submission addresses the "meal breaks" issue raised by the AiGroup, which affects the following awards under review:
4. AM2014/75 Manufacturing and Associated Industries and Occupations Award 2010;
5. AM2014/268 Food, Beverage and Tobacco Manufacturing Industry Award 2010;

AM2014/75 Manufacturing and Associated Industries and Occupations Award 2010

6. There are two issues which are raised in the AiGroup's submission:
7. The specific form of words proposed; and
8. Whether the fourth or the fifth hour is the reference point.

Form of words

9. On the first issue, the AMWU agrees with the AiGroup, that the form of words used by the Commission in its decision does not reflect what the parties' agreed to for the Manufacturing and Associated Industries and Occupations Award 2010.
10. The form of words which was agreed by the parties and presented in the AMWU's submission 31 October 2016 is as follows:

“(b) by agreement between an employer and an individual employee or the majority of employees in an enterprise or part of an enterprise concerned, an employee or employees may be required to work in excess of five hours but not more than six hours without a meal break, at the rate of pay applying to the employee immediately prior to the end of the fifth hour of work.”² (agreed words in underline)
11. The AMWU agreed to this form of words at the time to ensure that there was no change in the existing entitlements which might apply to the words “ordinary time rate,” which was being replaced.
12. The AMWU agrees with the AiGroup that this form of words should be used.

¹ [AiGroup Submission 20 August 2018 Meal Breaks](#)

² [AMWU Submission 31 October 2018](#) at page 9 Attachment A

Whether the fifth hour reference should be changed to the fourth hour reference

13. The AMWU does not agree with the AiGroup proposal that the reference to the “fifth hour” should be changed to the “fourth hour.”
14. This would be a change to a point in time which is an hour before the hour which they would be working through without a meal break. It would not be immediately before the sixth hour and may include different rates of pay.

AM2014/268 Food, Beverage and Tobacco Manufacturing Award 2010

15. This Award also has the issue of the fourth hour being used as the relevant reference point, when it should be the fifth hour. In this Award, the Commission has decided to adopt the parties’ agreed approach for the Manufacturing and Associated Industries and Occupations Award 2010, in the Food, Beverage and Tobacco Manufacturing Award 2010.
16. However, the Commission has changed the reference from the fifth hour to the fourth hour, which changes the point of reference that the parties’ previously agreed. The Commission also uses a different form of words.
17. The relevant hour which the clause is directed to, where employees might be asked to work through without a meal break is the sixth hour. Therefore, the relevant point of reference should be the pay that applied immediately prior to the end of the fifth hour.
18. The AMWU proposes that the same form of words which was agreed by the parties above in the Manufacturing and Associated Industries and Occupations Award 2010 also be used in the Food, Beverage and Tobacco Manufacturing Award 2010 as follows:

“(b) by agreement between an employer and an individual employee or the majority of employees in an enterprise or part of an enterprise concerned, an employee or employees may be required to work in excess of five hours but not more than six hours without a meal break, at the rate of pay applying to the employee immediately prior to the end of the fifth hour of work.” (agreed words in underline)

End

19 October 2018