

26/11/15

Fremantle Commercial Diving
2/14 Renewable Chase
Bibra Lake, WA 6163

To Whom It May Concern:

RE: Review of Professional Diving Industry (Industrial) Modern Award 2010

Regarding the issue of whether the ordinary hours of work for an inshore diver should be 33 or 38 hours per week, Fremantle Commercial Diving (FCD) would like to restate our position that there is no justifiable reason to change the indisputable current arrangement of 38 hours per week to a 33 hour week. A 33 hour week is incongruent with the offshore diving industry and there is no argument coming forth from any party to justify a 33 hour work week for inshore divers other than historical references to superseded awards. The fact that the historical MUA award drafted in 2002 cited a 33 hour week for inshore divers is in itself not an argument, as the natural counter argument is that the current and therefore more relevant 2010 Modern Award cites a 38 hour week.

As we have previously stated, there is nothing in the nature of the work that inshore divers perform that lends itself to a short working day. Commercial diving is a high risk industry that requires sophisticated systems of risk management to ensure the safety of divers. This involves extensive documentation, consultation and checks prior to and after diving. The result of these processes is generally a longer than average working day, not a shorter one. Typically a well-run diving operation will take between 10 and 12 hours. Encouraging the inshore diving industry to consider a 33 hour working week as standard invites a return to safety standards of yesteryear and puts divers at risk. For this reason we believe that a 33 hour working week is not in line with current commercial diving industry practices and conflicts with accepted standards for employment more widely. This is re-enforced by the offshore diving industry using a 38 hour working week as standard.

Under schedule B – summary of rates of pay, the exposure draft has calculated the hourly rates in tables B.1.1 and B.1.2 by taking the minimum weekly rates for a full time inshore employee from figures in section 21.1 and dividing them by 33 (not 38). The exposure draft has however left out the rates for casual inshore employees in sections B.2.1 and B.2.2 with a comment that these will be provided when the issue of a 33 hour vs a 38 hour

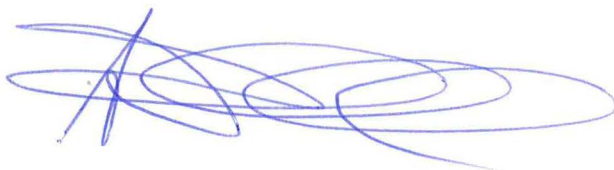
working week is resolved. It is our understanding that the previous exposure draft (2014) only called for comment on whether a working week should be 33 or 38 hours for casuals, and that a 38 hour week was accepted for full time employees. If this understanding is correct then the rates in tables B.1.1 and B.1.2 are incorrect and need to be recalculated. As an example, the result of this calculation will bring the ordinary hourly rate for a full time diver down from the quoted \$27.84 per hour to the current correct \$24.18 per hour. If we have misunderstood this issue and both full time and casual working week lengths are in dispute, then we would re-iterate our rejection of the proposed 33 hour week as cited above and tables B.1.1 and B.1.2 should also be omitted from the exposure draft.

Furthermore, as we have stated in our previous submission, almost all inshore commercial diving companies will have existing contracts with their clients made in good faith based on the current modern award. These contracts will often run for 5 or more years into the future. A 13.15% increase in wages, in addition to annual CPI increases will affect their ability to service these contracts in future. As a company that prides itself on commitment to diver safety, FCD fear that if employers are forced to bear the cost of a 13.15% increase in wages they may look to make savings in other areas that could directly impact on the safety of the industry.

In light of the above, FCD strongly believe that the current established arrangement for calculating casual wages that is clearly defined in the current modern award as "A casual employee will be paid 1/38th of the relevant minimum wage..." should remain unchanged. We also believe a standard working week for a full time inshore diver should remain at 38 hours in line with accepted employment norms, and to argue against this is to put the safety and wellbeing of divers at risk.

Further enquiries should be directed to Antony Old at Fremantle Commercial Diving:
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Yours Sincerely,



Antony Old
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Fremantle Commercial Diving