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AM2016/15 Plain Language Re-Drafting AM2017/16 National Training Wage

Background

1. The Fair Work Commission (**the Commission**) is currently undertaking a 4-yearly review of modern awards (**the Review**) as required by s.156 of the Fair Work Act 2009 (**the FW Act**).
2. On 6 July 2016 a Full Bench of the Fair Work Commission proposed to remove the National Training Wage Schedule from all awards save for the *Miscellaneous Award 2010* and incorporate the National Training Wage Schedule into other awards by reference to the *Miscellaneous Award*.¹
3. On 5 December 2016 the AMWU proposed that award specific schedules be retained with respect to the following awards:
 - Airline Operations – Ground Staff Award 2010 (**Ground Staff Award**)
 - Airport Employees Award 2010 (**Airport Employees Award**)
 - Food, Beverage and Tobacco Manufacturing Award 2010 (**Food Award**)
 - Manufacturing and Associated Industries and Occupations Award 2010 (**Manufacturing Award**)
 - Sugar Industry Award 2010 (**Sugar Award**)
 - Surveying Award 2010 (**Surveying Award**).
4. At a mention/directions hearing held on 27 September 2018, the AMWU advised the Commission that it was hopeful of reaching an agreement with the Australian Industry Group with respect to the content of award specific national training wage schedules proposed by the AMWU and requested more time to enable further discussions to take place.² The AMWU also advised that it no longer pressed for an award specific schedule with respect to the Surveying Award.³

¹ [2016] FWC 4495.

² AM201615; AM2016/17 [Transcript of proceedings 27 September 2018](#) PN217.

³ Ibid PN215.

5. On 27 March 2019, the AMWU filed in the Fair Work Commission draft National Training Wage schedules reflecting the agreement between the AMWU and the Ai Group with respect to the:
 - Airport Employees Award;
 - Food Award;
 - Manufacturing Award; and the
 - Sugar Award.⁴
6. On 20 August 2019 the Plain Language Full Bench handed down a Decision which dealt with a variety of matters being dealt with as part of the “Plain language project” **(the 20 August Decision)**.⁵
7. Paragraphs [134]-[138] deal with the National Training Wage Schedules. Paragraph [138] provides:

*“Draft variation determinations reflecting the AMWU/Ai Group agreement will be published with this decision. Interested parties will have 14 days to comment. Absent a request for an oral hearing any outstanding issues will be decided on the papers.”*⁶
8. On 23 August 2019 the AMWU filed a draft schedule relating to the Airline Operations – Ground Staff Award 2010, advising that the reason the draft schedule was not filed with the other draft schedules on 22 March 2019 was due to an unfortunate error on the part of the AMWU.⁷
9. On 28 August 2019, the Plain Language Full Bench issued a statement with respect to the National Training Wage Schedule of the Ground Staff Award.⁸The Statement proposed to deal with the National Training Wage Schedule for the Ground Staff Award in a similar way to the schedules relating to the other awards dealt with in the 20 August Decision.
10. The AMWU provides the following comments; both in relation to the Draft Determinations generally and also in relation to the specific draft determination in relation to each award.

General Comments

11. Subject to the below schedule specific comments, the draft Schedules reflect the agreed position between the AMWU and the Ai Group, and as such the AMWU supports the determinations being made.
12. A number of the draft determinations appear to contain amendments in red as per tracked changes. We assume this will be resolved and the tracked changes turned off when the final determinations are made.

⁴ [Submissions of the AMWU of 27 March 2019.](#)

⁵ [2019] FWCFB 5409.

⁶ Ibid [138].

⁷ [Correspondence and submission of the AMWU 23 August 2019.](#)

⁸ [2019] FWC 5987.

Airline Operations – Ground Staff Award 2010

13. Subject to the comments made above under the heading ‘General Comments’ the AMWU has not identified any issues with the published draft determination and supports the determination being made.

Airport Employees Award 2010

14. Subject to the comments made above under the heading ‘General Comments’ the AMWU has not identified any issues with the published draft determination and supports the determination being made.

Food, Beverage and Tobacco Manufacturing Award 2010

15. With respect to D.4.2(a), the “NOTE” directly beneath Table 5 on page 6 should be changed from:
“NOTE: See paragraph (d) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”
to:
“NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”.
16. With respect to D.4.2(b), the “NOTE” directly beneath Table 6 on page 7 should be changed from:
“NOTE: See paragraph (e) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”
to:
“NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”.
17. With respect to D.4.2(c), the “NOTE” directly beneath Table 7 on page 8 should be changed from:
“NOTE: See paragraph (e) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”
to:
“NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”.
18. With respect to D.4.2(d), the “NOTE” directly beneath Table 8 on page 8 should be changed from:
“NOTE: See paragraph (d) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”
to:
“NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”.
19. With respect to D.4.2(e), the “NOTE” directly beneath Table 9 on page 9 should be changed from:

“NOTE: See paragraph (e) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”

to:

“NOTE: See paragraph (f) for calculating the actual minimum wage. See also clause D.4.3 for other minimum wage provisions that affect this paragraph”.

20. The reason for these changes is because ‘paragraph (f)’ is in fact the appropriate cross reference as it is the subparagraph that prescribes how to calculate “the actual minimum wage.”

Manufacturing and Associated Industries and Occupations Award 2010

21. The definition of “training package” has been changed in the draft determination to reinsert the words:

“and placed on the National Training Information Service with the approval of the relevant Ministers and includes any relevant replacement training package”.

22. This sentence was left out of the AMWU’s draft schedules (and similarly the definition of ‘relevant ministers’ deleted) with agreement from Ai Group to reflect the new arrangements as the body with the task of endorsing training packages is now the COAG Industry and Skills Council (CISC).⁹
23. If the Commission is minded to retain the words *“and placed on the National Training Information Service with the approval of the relevant Ministers and includes any relevant replacement training package”* in the definition of ‘training package’ in the NTW Schedule for the Manufacturing Award, then in the interests of consistency, this should also be reflected in the draft determinations for the other awards, and the definition of ‘relevant ministers’ would also need to be reinserted.
24. The AMWU submits that this is undesirable, as it would mean that the definition of ‘training package’ is outdated and not reflective of the way training packages are currently endorsed, and that accordingly the definition should revert to what was provided in the AMWU draft schedule.
25. An alternative way of resolving the matter, would be to change the words “relevant ministers” to “COAG Industry and Skills Council (CISC)”.
26. Whichever way the issue is decided, the definition of “training package” should be reflected in the other draft determinations in the interests of consistency.

⁹

https://docs.education.gov.au/system/files/doc/other/training_package_development_and_endorsement_process_policy.pdf.

Sugar Industry Award 2010

27. Subject to the comments made above under the heading 'General Comments' the AMWU has not identified any issues with the published draft determination and supports the determination being made.

END

AMWU 11 SEPTEMBER 2019