

IN THE FAIR WORK COMMISSION

Matter No: AM2016/15

Four Yearly Review of Modern Awards –Plain Language redrafting – *Manufacturing and Associated Industries and Occupations Award 2010*

**JOINT REPORT OF THE AUSTRALIAN INDUSTRY
GROUP, THE CFMMEU AND THE AMWU**

14 February 2020

1. This joint report is made pursuant to the directions of Vice President Hatcher issued at the Conference held at the Fair Work Commission (**Commission**) on 6 November 2019 pertaining to the extent of the coverage of the *Manufacturing and Associated Industries Award 2010* (**Manufacturing Award**) that is derived from that of the *Furnishing Industry National Award 2003* (**FINA**) for the purpose of clarifying the boundaries of the application of the ‘small business redundancy entitlement’ contained in cl. 23.2 of the Manufacturing Award.
2. The Australian Industry Group (**Ai Group**) has had discussions with the Manufacturing Division of the Construction, Forestry, Maritime, Mining and Energy Union (**CFMMEU**) and the Australian Manufacturing Workers’ Union (**AMWU**). The discussions have considered the correct approach to determining the extent to which the coverage of the Manufacturing Award ‘overlaps’ with that of the former FINA, and which employees should be entitled to the ‘small business redundancy entitlement’
3. The task is not straightforward because some of the areas of coverage of the FINA overlapped with the coverage of the *Metal, Engineering and Associated Industries Award 1998*, the *Rubber, Plastic and Cablemaking Industry Award 1998* and other pre-modern awards replaced by the Manufacturing Award. A small business redundancy entitlement did not exist for employers and employees covered by most of these pre-modern awards.
4. The parties have not been able to reach agreement on the appropriate method to be applied by the Commission in determining the definition of a ‘small furnishing employer’ for the purposes of cl. 23.2 of the Manufacturing Award.
5. Ai Group proposes that the Commission examine existing elements of the coverage in the Manufacturing Award and determine which of these are directly derived from the coverage of the FINA, but not including elements that were included in the Manufacturing Award primarily as a result of the coverage of other pre-modern awards. Ai Group has listed sub-

clauses from the definition of ‘Manufacturing and Associated Industries and Occupations’ in cl. 4.9 of the Manufacturing Award which Ai Group considers, with various exceptions regarding articles derived from plastic, rubber or metal, were included in the Award as a result of former coverage by the FINA. The Australian Industry Group has proposed a draft award variation which would reflect this position.

6. The CFMMEU and the AMWU recommend that the Commission consider which categories of work from clause 6 of the FINA are covered by the Manufacturing Award and then consider how that work should be expressed in the modern award. For this purpose, the AMWU and the CFMMEU have listed provisions in the coverage clause of the FINA which these parties consider are currently reflected in the Manufacturing Award.
7. The parties proposed that after appropriate time has been afforded to the Commission to consider the parties respective positions, the matter be listed for further Conference in late March 2020.

Ai GROUP

CFMMEU (MANUFACTURING DIVISION)

AMWU

14 February 2020

Position of the Australian Industry Group

List of industries and parts of industries which are impacted by the small business redundancy entitlement in cl. 23.2 (all clause references from the Manufacturing Award)

The manufacture, making, assembly, processing, treatment, fabrication and preparation of:

- furnishings made from cane, bamboo and other like materials; (cl. 4.10(hh))
- upholstery, furnishing drapery, blinds, screens, awnings, mattresses and bedding; (cl. 4.10(ii))
- flooring products made from other than wood; (cl. 4.10(jj))
- picture frames made from other than wood; (cl. 4.10(kk))
- musical instruments made from other than wood (cl. 4.10(kk))

except where any of the above are made out of metal, plastic or rubber or any like materials.

Utilising the clause suggested by the Full Bench in [49] of its 11 December 2018 Decision [\[2018\] FWCFB 7447](#), the following wording is proposed for cl. 23.4(a):

23.4 Redundancy pay for employee of furnishing small business employer

~~(a) Clause 23.4 applies to an employee of a small business employer who performs any of the work within the Manufacturing and Associated Industries and Occupations which, immediately prior to 1 January 2010, was in clauses 6.1 to 6.6 of the *Furnishing Industry National Award 2003*, except for an employee who is excluded from redundancy pay under the [NES](#) by section 121(1)(a), section 123(1) or section 123(4)(a) of the [Act](#).~~

(a) Clause 23.4 applies to an employee of a small business employer who is predominantly engaged in the manufacture or repair of:

- (i) furnishings made from cane, bamboo and other like materials;
- (ii) upholstery, furnishing drapery, blinds, screens, awnings, mattresses and bedding;
- (iii) flooring products made from other than wood;
- (iv) picture frames made from other than wood;
- (v) musical instruments made from other than wood;

except where any of the above items are made out of metal, plastic, rubber or any like material or the employee is excluded from redundancy pay under the NES by section 121(1)(a), section 123(1), section 123(4)(a) or section 123(4)(d) of the Act.

Position of the CFMMEU and the AMWU

List of clauses in the coverage provision of the FINA which describe work currently covered by the Manufacturing Award.

6.1.1 *Wholly or partly preparing, packing, assembling, manufacturing, repairing or fixing, whether new or second-hand:*

- *any article of furniture; (including in-built furniture)*
- *camp and/or garden furniture; or*
- *caravan furniture and/or caravan beds made by a furniture manufacturer; or*
- *show cases, clock cases, printer's cases; or*
- *ice chests.*

Except where any of the foregoing are made of wood or timber, manufactured wood or timber products

6.1.2 *Repairing any new or second-hand article of furniture usually made or partly prepared by cabinet makers or chair, settee, lounge or couch (fixed or convertible) makers; Except where any of the foregoing are made of wood or timber, manufactured wood or timber products*

6.1.3 *upholstering on metal or any substitute material;*

6.1.16 *manufacturing, assembling or repairing wire mattresses;*

6.1.17 *manufacturing or repairing mattresses or bedding;*

6.1.20 *preparing or sealing floors (other than wood) where such preparing or sealing is necessary to ensure the correct laying of the required floor coverings;*

6.1.21 *waxing, gilding, bronzing or applying other "metallic finish" process by hand, brush, power-tool, machine or spray;*

6.1.22 *making, fixing or repairing draperies, blinds, awnings or screens (including venetian and/or wire blinds) but not including persons working as tentmakers;*

6.1.23 *the work of persons employed as mattress sewers, upholstery sewers, table hands, lampshade hands or drapery hands;*

6.1.24 *making or repairing picture frames (including art picture frames) or framed mirrors (Except where any of the foregoing are made of wood or timber, manufactured wood or timber products);*

6.1.25 *wholly or partly preparing, repairing or manufacturing refrigerators;*

6.1.29 *employees other than workers in the employment of a retail shop and furnishing drapery establishments engaged in wholly or partially in the planning, measuring, and/or repair of blinds, cornice boxes, pelmets, fascia and the like used in connection with blinds.*

6.2.5 *manufacturing or repairing lampshades;*

6.2.6 *optical work or glass, excepting spectacle lenses or frames.*

6.3 *Musical instruments (Except where any of the following are made of wood or timber, manufactured wood or timber products)*

6.3.1 *Manufacturing or repairing instruments or parts thereof other than electronic organs;*

6.3.2 *tuning or servicing musical instruments (including electronic organs);*

6.3.3 *building, repairing, servicing or tuning pipe-organs.*

6.5.1 *Manufacturing*

6.5.1(a) *Baby carriages, dolls' carriages, mobile chairs or parts thereof;*

6.5.1(b) *any goods made of wicker, bamboo, cane or similar materials;*

6.5.1(c) *assembling or putting together any parts of baby carriages, dolls' carriages or mobile chairs.*