

Australian Industry Group

# 4 YEARLY REVIEW OF MODERN AWARDS

## **Reply Submission**

Plain Language Re-Drafting –  
*Fast Food Industry Award 2010*  
(AM2016/15)

**9 December 2020**

**Ai**  
GROUP

**4 YEARLY REVIEW OF MODERN AWARDS**  
**AM2016/15 PLAIN LANGUAGE RE-DRAFTING**  
**– FAST FOOD INDUSTRY AWARD 2010**

1. The Australian Industry Group (**Ai Group**) files this reply submission in relation to the exposure draft (**Exposure Draft**) of the *Fast Food Industry Award 2010* (**Award**), which was published by the Fair Work Commission (**Commission**) on 28 October 2020. The submission responds to submissions filed by the Shop, Distributive and Allied Employees' Association (**SDA**) and Australian Business Industrial and the NSW Business Chamber (**ABI**) on 25 November 2020.

**Response to the SDA's Submissions**

2. Our submissions relate only to the issues raised by the SDA in their submission. They do not respond to the 'comparison document' appended to the SDA's submissions, as it is not clear that the union is advancing any specific concerns or proposed changes to the Exposure Draft in that material.
3. Further, in respect of various provisions of the Exposure Draft, the SDA has 'noted' certain matters but has not articulated a submission or proposed a change to the Exposure Draft. In other respects, the SDA identifies that it does not oppose certain aspects of the Exposure Draft. Our submissions do not seek to respond to those parts of the union's submission.

**Clause 2 of the Exposure Draft – Definitions – Adult employee**

4. Ai Group does not agree that the proposed definition of 'adult employee' is "prejudicial to the rights of employees aged 18 and over".

**Clause 2 of the Exposure Draft – Definitions – Default fund employee**

5. The term 'default fund employee' is not used in the Exposure Draft. It is therefore appropriate that it is deleted.

### **Clause 2 of the Exposure Draft – Definitions – Standard rate**

6. The changes proposed by the SDA are not necessary. Each of the relevant allowances in Schedule B of the Exposure Draft are expressed as a percentage of the hourly standard rate.

### **Clause 3.4 of the Exposure Draft – The NES and this Award**

7. Clause 3.4 of the Exposure Draft reflects the approach taken by the Commission across the awards system. A departure from that approach is not warranted in the context of the Exposure Draft.

### **Clause 4.2 of the Exposure Draft – Coverage**

8. Ai Group agrees with the submissions made by the SDA about clause 4.2 of the Exposure Draft. At paragraphs 2 – 17 of Ai Group's submission of 25 November 2020, we identified various specific concerns arising from the redrafted coverage clause contained in the Exposure Draft.

### **Clause 4.3 of the Exposure Draft – Coverage**

9. Ai Group agrees with the submissions made by the SDA about clause 4.3 of the Exposure Draft. We refer to paragraphs 18 – 22 of our submission of 25 November 2020.

### **Clause 10.2 of the Exposure Draft – Part-time employees**

10. We oppose the amendment proposed by the SDA.
11. The Award and the Exposure Draft do not contain substantive provisions requiring that employees must be rostered or that a roster must be prepared. To that extent, the reference to rostering in clause 12.7 of the Award is anomalous and confusing. The Exposure Draft has appropriately addressed this issue by removing that reference.

### **Clause 10.3 of the Exposure Draft – Part-time employees**

12. While we do not consider that the proposed change is necessary, we do not oppose it.

### **Clause 10.3(c) of the Exposure Draft – Part-time employees**

13. While we do not consider that the proposed change is necessary, we do not oppose it.

### **Clause 10.8 of the Exposure Draft – Part-time employees**

14. The proposed change is not necessary. Further, there are various other provisions that may also be relevant to the amounts payable to part-time employees for ordinary hours of work (such as allowances). Referring to each of those provisions would render the provision unnecessarily complex.

### **Clause 12.8 of the Award – Part-time employees**

15. The SDA opposes the “deletion” of clause 12.8 of the Award.
16. Clause 12.8 of the Award is reflected at clause 11.2 of the Exposure Draft. In our submission, no amendment to the Exposure Draft is necessary in this regard.

### **Clause 11.3 of the Exposure Draft – Note 2**

17. It is not clear whether the SDA is taking issue with the placement of Note 2 and / or whether they have proposed a change to it. We will endeavour to respond to this issue in any conference listed before the Commission if the union clarifies its position.

### **Clause 12.4 of the Exposure Draft – Classifications**

18. Ai Group agrees with the SDA’s submissions. We have identified specific concerns arising from changes made to clause 12.4 in our earlier submissions of 25 November 2020.

### **Clause 15.1 of the Exposure Draft – Adult rates**

19. Ai Group does not consider that the reference to ‘adult’ rates requires amendment.

### **Clause 15.1 of the Exposure Draft – Minimum hourly rates**

20. Ai Group would not oppose the insertion of a note or footnote that explains the basis upon which the minimum hourly rates have been derived.

### **Clause 15.2 of the Exposure Draft – Junior rates**

21. Ai Group does not consider that the reference to ‘adult’ rates requires amendment.

### **Clause 17.2 of the Exposure Draft – Broken hill allowance**

22. The changes proposed by the SDA are not necessary, in light of the approach taken in Schedule B to the Exposure Draft.

### **Clause 17.3 of the Exposure Draft – Cold work allowance**

23. The changes proposed by the SDA are not necessary, in light of the approach taken in Schedule B to the Exposure Draft.

### **Clause 17.4 of the Exposure Draft – Meal allowance**

24. Ai Group does not oppose the SDA’s proposal.

### **Clause 17.5 of the Exposure Draft – Special clothing allowance**

25. Ai Group does not oppose the SDA’s proposal.

### **Clause 17.8 of the Exposure Draft – Transport allowance**

26. Ai Group does not oppose the SDA’s proposal on the basis that it seeks to reinstate the language used in the relevant provision of the Award.

### **Clause 18 of the Exposure Draft – Accident pay**

27. The definition of ‘injury’ has not been “deleted”, as submitted by the SDA. We draw the union’s attention to clause 18.2(c) of the Exposure Draft.

### **Clauses 22.3(a) and (b) of the Exposure Draft – Annual leave loading**

28. We refer to our submissions of November 2020 at paragraphs 75 – 79.

### **Clause 22.8(e) of the Exposure Draft – Excessive annual leave**

29. We agree with the SDA’s submission regarding the incorrect cross-reference.

### **Clause 26 of the Exposure Draft – Family and domestic violence leave**

30. The Exposure Draft is consistent with the approach taken by the Commission across the awards system and a previous decision in this regard. A departure from that approach is not warranted in the context of the Exposure Draft.

### **Clause 32.2(c) of the Exposure Draft – Redundancy**

31. We agree with the SDA’s submission.

## **Response to the ABI’s Submissions**

### **Clause 4.2 of the Exposure Draft – Coverage**

32. We agree with ABI’s submissions. At paragraphs 2 – 17 of Ai Group’s submission of 25 November 2020, we identified various specific concerns arising from the redrafted coverage clause contained in the Exposure Draft.

### **Clause 4.4(e) of the Exposure Draft – Coverage**

33. We do not consider that the concern raised by ABI warrants a redrafting of clause 4.4(e) of the Exposure Draft.

### **Clause 12.2 of the Exposure Draft – Classifications**

34. We agree with ABI’s submissions.

### **Clause 12.4 of the Exposure Draft – Classifications**

35. We agree with ABI's submissions. At paragraphs 32 – 50 of Ai Group's submission of 25 November 2020, we identified various specific concerns arising from the redrafted classification definitions contained in the Exposure Draft.

### **Clause 20.5 of the Exposure Draft – Note**

36. We oppose the change proposed by ABI. We refer to paragraphs 66 – 68 of our submission of November 2020 in this regard.