

IN THE FAIR WORK COMMISSION

Matter No.: AM2016/15 Plain Language Standard Clauses



Reply Submissions of the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU) regarding the Plain Language Standard Clauses

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) requests leave to provide the following reply-submissions to the Fair Work Commission.
2. The AMWU supports and adopts the Australian Council of Trade Union's (ACTU) submissions and continues to rely upon the AMWU's previously lodged submission 29 September 2016¹.
3. However, a need to provide a further submissions has arisen due to the position which the AiGroup has taken in its reply submission which appears to be based on words formulated during the Award Stage Review Group 1 and subject to further contentions in matter AM2014/75 *Manufacturing and Associated Industries and Occupations Award 2010*.
4. In light of the unforeseen consequence of the AiGroup's position in the reply submission we respectfully request the FWC allow this reply submission from the AMWU into the proceedings.

Transfer to Lower Paid Job on Redundancy

5. The Commission had proposed to change the wording for this entitlement to include the payment at the difference between the "full rate of pay" for the two relevant positions.
6. The original clause contained the entitlement to be paid at the difference between the "ordinary time rate of pay" for the two relevant positions.

Ordinary Hourly Rate

7. The AiGroup had seemed to advocate against the plain language redraft and for no change to the wording from the current clause in their submission dated 4 October 2016² and uploaded to the FWC website 6 October 2016 at paragraphs 148 to 161.
8. However, in their submission in reply 28 October 2016³ the AiGroup adopted a specific form of words which had not previously been canvassed. The submission at paragraph 77 canvassed the use of the words, "ordinary hourly rate of pay,":

"The NFF and HIA have raised similar issues to those raised at paragraphs 148 – 162 of our submissions dated 4 October 2016. However, we do not agree with the NFF's proposal that the term 'base rate of pay' should be used instead of 'full rate of pay' as this may include over award payments. Rather, we submit that the words 'full rate of pay' should be generally be replaced with 'ordinary hourly rate' unless particular awards specify otherwise." (emphasis added)

¹ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201615-sub-amwu-290916.pdf>

² <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201615-sub-aig-041016.pdf>

³ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201615-rep-sub-aig-281016.pdf>

9. The use of the word “ordinary hourly rate” is the subject of consideration in Group 1 awards and in AM2014/75 Manufacturing and Associated Industries and Occupations Award 2010.
10. The use of “ordinary hourly rate” in the Group 1 proceedings does not include shift and other penalties and the replacement of “ordinary time rate of pay” with new terminology means that each individual clause needs to be assessed before being replaced with “ordinary hourly rate” to ensure that clauses which were intended to include penalties and overtime did not have their intention changed.
11. The AMWU supports the ACTU submission that for this instance the rate of pay should include penalties and overtime.
12. The AMWU submits that AiGroup proposal to change the words to “ordinary hourly rate of pay” should not be accepted.

End

4 November 2016