



Business SA Submission

4 yearly review of
modern awards – *Plain
language re-drafting –
Substitution of public
holidays*

(AM2016/15)

16 May 2018

Introduction

1. Business SA provides this submission in response to directions issued following the 15 March 2018 Statement regarding the 4 yearly review of modern awards - Plain language redrafting (AM2016/15).¹ Directions issued by Vice President Hatcher invited interested parties to make submissions on, firstly, the accuracy of the list of substitution clauses referred to in [2018] FWC 1501 and, secondly, 'whether an award term which permits public holidays substitution by agreement between an employer and a majority of employees excludes the NES or any provision of the NES, within the meaning of s.55(1).'²
2. The March Statement was issued following summarises the history of this issue, we do not intend to repeat it in detail here. These questions are the result of an issue identified by the National Tertiary Education Union (**NTEU**) during the review of the Group 3 Awards. In short, the NTEU questioned whether clause 20.2 of the Educational Services (Post-Secondary Education) Award 2015 exposure draft was consistent with s 115(3) of the *Fair Work Act 2009* (Cth) (**the Act**).
3. Business SA provided a brief submission in support of the NTEU this matter in May 2016.³ While we maintain our May 2016 position, the current submission allows Business SA to provide a more detailed submission on this topic. As will be discussed further, Business SA submits there does appear to be an inconsistency with the NES where an award term permits public holidays to be substituted by agreement between an employer and a majority of employees, but not between an employer and an individual employee. However, we submit award terms which permit substitution by agreement between an employer and majority of employees do not themselves exclude the NES or any provision of the NES.

Accuracy of list of substitution clauses

4. Business SA has no submissions to make regarding the accuracy of the list of modern awards containing majority substitution clauses referred to the Plain Language Full Bench in [2018] FWC 1501.
5. Business SA makes the following observation regarding 27 of the 78 modern awards listed in Attachment A of [2018] FWC 1501. The 78 awards listed in Attachment A allow substitution of public holidays by majority agreement. Of these 78 awards, 27 awards also allow an employer to substitute a public holiday by agreement with an individual employee. A list of the 49 awards which do not contain terms permitting individual agreement is contained in Appendix 1. A list of the 27 awards permitting individual agreement, and the relevant clause, is contained in Appendix 2.

Potential exclusion of the NES

Statutory framework

6. Before we respond to the Commission's second invitation we note aspects of the statutory framework for public holiday provisions within modern awards.

¹ [2018] FWC 1501 (**March Statement**).

² Vice President Hatcher, 'Directions – 4 yearly review of modern awards – plain language re-drafting', 27 April 2018, [2].

³ Business SA, 'Submissions in Reply Group 3 Exposure Drafts', 6 May 2016, [5.14].

7. The modern awards objective is contained within section 134(1) of the Act. The modern awards objective is stated as follows: The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:
- (a) relative living standards and the needs of the low paid; and
 - (b) the need to encourage collective bargaining; and
 - (c) the need to promote social inclusion through increased workforce participation; and
 - (d) the need to promote flexible modern work practices and the efficient and productive performance of work; and
 - (da) the need to provide additional remuneration for:
 - (i) employees working overtime; or
 - (ii) employees working unsocial, irregular or unpredictable hours; or
 - (iii) employees working on weekends or public holidays; or
 - (iv) employees working shifts; and
 - (e) the principle of equal remuneration for work of equal or comparable value; and
 - (f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and
 - (g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
 - (h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

The modern awards objective applies to the performance or exercise of the FWC's modern award powers under the Act.⁴ Business SA notes the following comment from the Full Bench of the Commission: 'While the Commission must take into account the s.134 considerations, the relevant question is whether the modern award, together with the NES, provides a fair and relevant minimum safety net of terms and conditions.'⁵

8. To achieve the modern awards objective a modern award may include terms that it is permitted to include, and must include terms that is required to include, only to the extent necessary to achieve the modern awards objective and (to the extent applicable) the minimum wages objective.⁶
9. As noted at [7] the National Employment Standards are a key factor when considering whether a modern award meets the modern award objective. The relationship between the NES and modern awards arises primarily from sections 55 and 56 of the Act. Key provisions of these sections are stated below. A modern award (or enterprise agreement) must not exclude the National Employment Standards or any provision of the National Employment Standards.⁷

⁴ *Fair Work Act 2009* (Cth) s 134(2).

⁵ [2017] FWCFB 1001, [116].

⁶ *Fair Work Act 2009* (Cth) s 138.

⁷ *Fair Work Act 2009* (Cth) s 55(1).

10. Further, a modern award (or enterprise agreement) may include any terms that the award or agreement is expressly permitted to include by a provision of Part 2-2 (which deals with the NES).⁸ A modern award may also include terms that are ancillary or incidental to the operation of an entitlement of an employee under the National Employment Standards, and terms that supplement the National Employment Standards, though only to the extent that the effect of those terms is not detrimental to an employee in any respect, when compared to the National Employment Standards.⁹
11. A term of a modern award (or enterprise agreement) has no effect to the extent that it contravenes section 55.¹⁰
12. A recent decision of the Full Bench¹¹ discusses the relationship between the NES and modern awards in relation to public holidays. The Full Bench in the Public Holidays common matter made the following comment regarding the NES and its influence on the content of modern awards:

It is evident from s 55(5) [not stated above] that the terms of a modern award (or enterprise agreement) may duplicate the terms of the NES, and such terms will then operate in parallel with the NES. In addition, modern awards may under s 55(4) also include terms that are ancillary or incidental to the operation of an entitlement of an employee under the NES or which supplement the NES, provided that the effect of those terms is not detrimental to an employee in any respect when compared to the NES. Further, s 55(1) provides that the terms of a modern award must not exclude any provision of the NES, and under s 56 any such term is of no effect.¹²

13. Provisions of the NES relating to public holidays are highly relevant to this submission, particularly s 115(3). Business SA has reproduced the public holidays division (Division 10) below.

114 Entitlement to be absent from employment on public holiday

- (1) An employee is entitled to be absent from his or her employment on a day or part-day that is a public holiday in the place where the employee is based for work purposes.
- (2) However, an employer may request an employee to work on a public holiday if the request is reasonable.
- (3) If an employer requests an employee to work on a public holiday, the employee may refuse if:
 - (a) the request is not reasonable; or
 - (b) the refusal is reasonable.
- (4) In determining whether a request, or a refusal of a request, to work on a public holiday is reasonable, the following must be taken into account:

⁸ Ibid s 55(2)(a).

⁹ Ibid s 55(4).

¹⁰ Ibid s 56.

¹¹ [2018] FWCFB 4, [21]-[28].

¹² Ibid [22].

- (a) the nature of the employer's workplace or enterprise (including its operational requirements), and the nature of the work performed by the employee;
- (b) the employee's personal circumstances, including family responsibilities;
- (c) whether the employee could reasonably expect that the employer might request work on the public holiday;
- (d) whether the employee is entitled to receive overtime payments, penalty rates or other compensation for, or a level of remuneration that reflects an expectation of, work on the public holiday;
- (e) the type of employment of the employee (for example, whether full-time, part-time, casual or shiftwork);
- (f) the amount of notice in advance of the public holiday given by the employer when making the request;
- (g) in relation to the refusal of a request – the amount of notice in advance of the public holiday given by the employee when refusing the request;
- (h) any other relevant matter.

115 Meaning of public holiday

(1) The following are **public holidays**:

- (a) each of these days;
 - (i) 1 January (New Year's Day);
 - (ii) 26 January (Australia Day);
 - (iii) Good Friday;
 - (iv) Easter Monday;
 - (v) 25 April (Anzac Day);
 - (vi) the Queen's birthday holiday (on the day on which it is celebrated in a State or Territory or a region of a State or Territory);
 - (vii) 25 December (Christmas Day);
 - (viii) 26 December (Boxing Day);
- (b) any other day, or part-day, declared or prescribed by or under a law of a State or Territory to be observed generally within the State or Territory, or a region of the State or Territory, as a public holiday, other than a day or part-day, or a kind of day or part-day, that is excluded by the regulations from counting as a public holiday.

(2) If, under (or in accordance with a procedure under) a law of a State or Territory, a day or part-day is substituted for a day or part-day that would otherwise be a public holiday because of subsection (1), then the substituted day or part-day is the **public holiday**.

(3) A modern award or enterprise agreement may include terms providing for an employer and employee to agree on the substitution of a day or part-day for a day or part-day that would otherwise be a public holiday because of subsection (1) or (2).

- (4) An employer and an award/agreement free employee may agree on the substitution of a day or part-day for a day or part-day that would otherwise be a public holiday because of subsection (1) or (2).

116 Payment for absence on public holiday

If, in accordance with this Division, an employee is absent from his or her employment on a day or part-day that is a public holiday, the employer must pay the employee at the employee's base rate of pay for the employee's ordinary hours of work on the day or part-day.

14. Business SA submits ss 114-116 operate as follows. We submit s 114 grants an employee the NES entitlement to absent from their employment on the day or part-day that the public holiday takes place. We further submit s 116 provides the employee an NES entitlement to be paid during their absence on the day or part-day public holiday. We submit s 115 is a definition section which defines the day or part-day on which the above NES entitlements will be provided. This may be the day listed in s 115(1), or alternatively, a day substituted by operation of ss 115(2)-(4).

Potential exclusion of the NES

15. The Directions have invited parties to provide submissions on 'whether an award term which permits public holidays substitution by agreement between an employer and a *majority* of employees excludes the NES or any provision of the NES, within the meaning of s.55(1).'¹³ Business SA considers there to be two circumstances in which to frame our response. The circumstance where an award contains a term which permits public holidays to be substituted by agreement between the employer and the majority of employees only, and the circumstance where an employer may reach agreement to substitute a public holiday with the majority of employees and with individual employees. These circumstances will be discussed in turn.
16. Section 115(3) of the Act is highly relevant to this discussion. Section 115(3) states: 'A modern award or enterprise agreement **may include terms providing for** an employer and employee to agree on the substitution of a day or part-day for a day or part-day that would otherwise be a public holiday because of subsection (1) or (2).' (emphasis added). An award is not required to include terms providing for public holidays to be substituted. Section 115(3) allows an award to include such terms, provided they allow an employer and employee to agree to such substitution. Business SA further submits s 115(3) does not require that employer and employee actually reach agreement, simply that discussions which may lead to such agreements are able to be held under the award. Where a substitution clause exists in an award, but the terms do not allow an employer and an individual employee to enter into such discussions, Business SA would consider there to be an inconsistency.
17. As noted earlier, Business SA previously agreed with the NTEU that there appeared to be an inconsistency between clause 20.2 of the Educational Services (Post-Secondary Education) Award 2015 exposure draft and the NES. We maintain this submission to illustrate our above proposition. Clause 20.2 only permits an employer and the majority of employees to agree to substitute another day for a public holiday; there is no capacity for an

¹³ Vice President Hatcher, 'Directions – 4 yearly review of modern awards – plain language re-drafting', 27 April 2018, [2].

individual employee and their employer to agree to substitute a day under this award term. The current award term¹⁴ operates with the same effect.

18. Business SA submits the presence of the majority agreement term **and** absence of an individual agreement term may constitute an inconsistency with, or exclusion from, the NES. The individual employee does not have any opportunity to enter into agreement with the employer to substitute another day for a public holiday. This situation appears in 49 of the 78 awards identified in Attachment A of the March Statement. These awards are listed in Appendix 1 to this submission. Such awards may need to be addressed to resolve this potential exclusion.
19. The second circumstance is where an award contains terms providing for the employer to enter agreement with the majority of employees, and with an individual employee, to substitute a public holiday. Business SA submits no inconsistency or exclusion arises in this circumstance. That is to say, an award term which permits public holiday substitution by agreement between an employer and a *majority* of employees does not, on its own, exclude the NES or any provision of the NES within the meaning of s 55(1) provided an individual is also able to negotiate for substitute public holidays.
20. The public holidays clause in the *Food, Beverage and Tobacco Manufacturing Award 2010* (**Food Manufacturing Award**) provides a relevant example by which to demonstrate Business SA's proposition. Clause 37.2 of the Food Manufacturing Award states:

37.2 Substitution of certain public holidays by agreement at the enterprise

- (a) By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, an alternative day may be taken as the public holiday instead of any of the prescribed days.
 - (b) An employer and an individual employee may agree to the employee taking another day as the public holiday instead of the day which is being observed as the public holiday in the enterprise or part of the enterprise concerned.
21. Of the list of awards identified in Attachment A of the March Statement, 27 contain terms permitting an employer and an individual employee to agree to substitute a public holiday. Appendix 2 contains a list of these awards and identifies the relevant clause.
 22. As discussed at [16], Business SA considers that the relevant NES provision simply provides that the award may contain terms allowing an employer and an individual employee to agree on a substitute public holiday. We submit award clauses providing for public holiday substitution by agreement between the employer and the majority of employees are allowable ancillary terms for the primary term under s 115(3) for the purposes of s 55(4) of the Act. A majority agreement clause allows an employer to approach each employee as part of the collective and negotiate for a substitute public holiday. This avoids the administrative burden of having to enter negotiations each employee individually.

¹⁴ *Educational Services (Post-Secondary Education) Award 2010* cl 29.2.

23. Where the majority of employees in the enterprise or part of the enterprise concerned agree with their employer to substitute a public holiday for an alternative day, that alternative day becomes the public holiday. The 'original' public holiday then becomes a 'normal' day (subject to any other payments such as weekend penalty rates). This approach is consistent with Full Bench's interpretation of substitution terms in general.¹⁵
24. Business SA submits such substitution is allowable as the employees affected are able to enjoy their NES entitlement to absence (per s 114) and NES entitlement to payment during that absence (per s 116) on the day now defined as the public holiday. No NES entitlements have been excluded by operation of this majority agreement to substitute a public holiday.
25. Where an individual disagrees with the majority of employees in the enterprise or part of the enterprise affected, in awards allowing individual agreement such as the Food Manufacturing Award, they have the ability to enter discussions with their employer to agree to alternative arrangements. Such employees may agree with their employer to take the 'original' public holiday, or treat an alternative day as a public holiday. In such circumstances the dissenting employee's NES entitlements to absence, and payment during that absence, are not excluded as they are simply enjoyed on an alternative day to the majority of the enterprise. If no agreement is reached with the individual, they enjoy the public holiday on the day observed by the majority of the enterprise.
26. The validity of majority agreement substitution clauses (where paired with individual agreement clauses) is strongly suggested in *Re Australian Nursing Federation* [2010] FWAFB 9290. Part of this matter dealt with divergent views on the validity of clause 44 of the modern Manufacturing Award within the NES. Treatment of public holidays falling on a weekend was the primary matter in dispute, however the Full Bench commented on the general substitution clause (clause 44.3). Clause 44.3 (now clause 44.2) was reproduced as follows:
- 44.3 Substitution of certain public holidays by agreement at the enterprise
- (a) By agreement between the employer and the majority of employees in the enterprise or part of the enterprise concerned, an alternative day may be taken as the public holiday instead of any of the prescribed days.
- (b) An employer and an individual employee may agree to the employee taking another day as the public holiday instead of the day which is being observed as the public holiday in the enterprise or part of the enterprise concerned.¹⁶
27. In their decision, the Full Bench described the interaction between clause 44.3 and s 115(3) as follows:

Section 115(3) of the Fair Work Act provides that a modern award may include terms providing for an employer and employee to agree on the substitution of a day or part-day for a day or part-day that would

¹⁵ [2018] FWCFB 4, [110], [113].

¹⁶ [2010] FWAFB 9290, [15].

otherwise be a public holiday because of ss.115(1) or (2) of the Fair Work Act. Clause 44.3 of the modern Manufacturing Award provides for such substitution by agreement.¹⁷

28. In the above matter the Full Bench was considering whether terms of the award were inconsistent with the NES. In this context Business SA submits the Full Bench's statement that clause 44.3 provides for substitution as contemplated by s 115(3) strongly suggests that the entire content of the clause, including the majority agreement element, accords with the NES. In this decision, particularly given the context of the matter, the Full Bench gave no indication the majority agreement aspect of clause 44.3 was inconsistent with the NES.
29. Business SA further notes the longstanding existence of majority agreement terms which enable majority agreement to substitute another day for a public holiday. We acknowledge the decision in *National Fire Industry Association Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia* [2013] FWC 2838. In this matter the Master Plumbers & Mechanical Services Association of Australia (MPA) sought to vary clause 37.2 of the *Plumbing and Fire Sprinklers Award 2010*. Clause 37.2 of this award states: 'By agreement between the employer and the majority of employees in the relevant enterprise or section of the enterprise, an alternative day may be taken as the public holiday instead of any of days (sic) prescribed in s.115 of the Act.' The MPA sought to vary this clause so that agreement could be reached between the employer and the employee.¹⁸ This approach would have come at the expense of the ability to substitute by majority agreement and was opposed by the CEPU.¹⁹ The application was unsuccessful, with Senior Deputy President Watson (as he then was) concluding:

The MPA has not established any evidentiary basis for the variation of cl 37.2 of the PFS award in order to achieve the modern awards objective or to ensure the PFS Award is operating effectively, without anomalies or technical problems arising from the award modernisation process. The current terms of cl 37.2 reflect the terms of pre-reform award instruments. No cogent reason has been established for disturbing its terms as decided by the Award Modernisation Full Bench.²⁰

30. Business SA also notes pre-NES recognition of the prevalence of majority agreement substitution clauses. While dealing with a different issue, and under a different legislative framework, *National Union of Workers and K L Ballantyne & National Union of Workers and (Laverton Site) Agreement 2004*²¹ provides illustrative obiter. Relevantly, the substitution of public holidays clause in the agreement is partially reproduced below. Subclauses not reproduced relate to union consent and a dispute resolution process.

¹⁷ Ibid [33].

¹⁸ *National Fire Industry Association Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia* [2013] FWC 2838, [44].

¹⁹ Ibid [46]-[47].

²⁰ Ibid [48].

²¹ Unreported, AIRC, PR952656, Vice President Ross, 22 October 2004.

36.3 Substitution of Public Holidays

36.3.1 The employer, with the agreement of the Union where appropriate, may substitute another day for any prescribed in this clause.

36.3.2 An employer and their employees may agree to substitute another day for any prescribed in this clause. **For this purpose, the consent of the majority of affected employees shall constitute agreement** [emphasis added].

36.3.3 An agreement pursuant to subcl 36.3.2 shall be recorded in writing and be available to every affected employee.²²

31. Vice President Ross (as he then was) commented: 'I note that the clause is in a form consistent with that which was common in awards prior to the reviews conducted under s 150A of the Industrial Relations Act 1988 in the 1990s.'²³ Whilst this matter predates the NES, Vice-President Ross' comment indicates the practice of binding an individual employee to the will of the majority of employees was not uncommon.

32. Business SA submits the above decisions and statements demonstrate, or in the alternative strongly suggest, previous recognition regarding the validity of majority agreement substitution clauses. No suggestion has been given in previous decisions that majority agreement substitution clauses potentially exclude the NES, or any provision of the NES. We further submit that comments, such as that from (then) Vice President Ross, demonstrate majority agreement substitution clauses have previously operated for a considerable period of time.

Dissenting employees

33. The above discussion leads to consideration of where a dissenting employee and their employer are unable to reach individual agreement to take an alternative day to that being observed as the public holiday in the enterprise or part of the enterprise concerned. Have their NES entitlements been excluded? Such circumstances may arise where that individual employee possesses irreplaceable skills required for the enterprise to operate; for example, a specialist equipment operator in a workshop. For this workplace the non-agreement of the specialist employee may render the entire enterprise unproductive on the 'original' public holiday (for which the specialist will be absent) and the substituted public holiday (where the operator may be the only employee present).

34. Business SA submits the dissenting employee's NES entitlements will not have been excluded. As indicated above, the dissenting employee will still enjoy his or her entitlement to absence and entitlement to be paid during that absence. It is simply that those entitlements will be enjoyed on the day substituted by agreement with the majority of employees, the alternative public holiday.

²² Ibid [122].

²³ Ibid [125].

Conclusion

35. Business SA submits majority agreement public holiday substitution terms do not exclude the NES or any provision of the NES within the meaning of s 55(1). We limit this submission to the circumstance where the relevant award also contains terms permitting the employer and an individual employee to reach an alternative agreement to the majority. Where an award only provides for majority agreement, there may be cause for the Commission to further consider NES compliance in those awards.
36. Majority agreement public holiday substitution terms have a long history and provide important flexibility for a range of Australian workplaces. Requiring an employer to individually enter negotiations and agree with each affected employee will impose a significant regulatory burden on workplaces and hinder productivity. Business SA cautions against an interpretation of s 115(3) which renders majority agreement substitution terms unworkable. Such terms are necessary to ensure enterprises, or sections of enterprises, are able to provide the community the goods and services they require on the 'actual' public holiday.
37. Business SA thanks the Fair Work Commission for accepting these submissions.

For further information from Business SA's policy team, please contact Karen van Gorp, Senior Policy Adviser, or Chris Klepper, Policy Adviser, (08) 8300 0000 or at karenv@business-sa.com or chrisk@business-sa.com.

Appendix 1

Modern Awards from list in [2018] FWC 1501 only allowing agreement between employer and majority of employees to substitute public holidays.

- Airport Employees Award 2010;
- Alpine Resorts Award 2010;
- Ambulance and Patient Transport Industry Award 2010;
- Aquaculture Industry Award 2010;
- Architects Award 2010;
- Asphalt Industry Award 2010;
- Banking, Finance and Insurance Award 2010;
- Black Coal Mining Industry Award 2010;
- Building and Construction General On-site Award 2010;
- Business Equipment Award 2010;
- Car Parking Award 2010;
- Cement and Lime Award 2010;
- Children's Services Award 2010;
- Cleaning Services Award 2010;
- Clerks-Private Sector Award 2010;
- Concrete Products Award 2010;
- Educational Services (Post-Secondary Education) Award 2010;
- Educational Services (Schools) General Staff Award 2010;
- Fast Food Industry Award 2010;
- General Retail Industry Award 2010;
- Hair and Beauty Industry Award 2010;
- Health Professionals and Support Services Award 2010;
- Horse and Greyhound Training Award 2010;
- Hospitality Industry (General) Award 2010;
- Hydrocarbons Industry (Upstream) Award 2010;
- Joinery and Building Trades Award 2010;
- Live Performance Award 2010;
- Mannequins and Models Award 2010;
- Mobile Crane Hiring Award 2010;
- Nursery Award 2010;
- Nurses Award 2010;
- Pest Control Industry Award 2010;
- Pharmaceutical Industry Award 2010;
- Plumbing and Fire Sprinklers Award 2010;
- Poultry Processing Award 2010;
- Premixed Concrete Award 2010;
- Quarrying Award 2010;
- Racing Clubs Events Award 2010;
- Racing Industry Ground Maintenance Award 2010;
- Registered and Licensed Clubs Award 2010;
- Restaurant Industry Award 2010;
- Road Transport (Long Distance Operations) Award 2010;
- Road Transport and Distribution Award 2010;
- Security Services Industry Award 2010;
- Storage Services and Wholesale Award 2010;
- Surveying Award 2010;
- Telecommunications Services Award 2010;
- Transport (Cash in Transit) Award 2010; and
- Wine Industry Award 2010.

Appendix 2

Modern Awards from list in [2018] FWC 1501 allowing agreement between employer and majority of employees, and between employer and individual employee, to substitute public holidays.

Modern Award	Clause
Aboriginal Community Controlled Health Services Award 2010	29.2(b)
Airline Operations – Ground Staff Award 2010	37.4(b)
Aluminium Industry Award 2010	26.2
Broadcasting and Recorded Entertainment Award 2010	26.2(c) ⁱ
Commercial Sales Award 2010	27.2(b)
Contract Call Centre Award 2010	30.3(b)
Electrical Power Industry Award 2010	30.2(a)
Electrical, Electronic and Communications Contracting Award 2010	31.2
Food, Beverage and Tobacco Manufacturing Award 2010	37.2(b)
Gardening and Landscaping Services Award 2010	27.2(b)
Graphic Arts, Printing and Publishing Award 2010	41.5(b)
Horticulture Award 2010	28.2(b)
Journalists Published Media Award 2010	27.5(b)
Labour Market Assistance Industry Award 2010	28.3(b) ⁱⁱ
Manufacturing and Associated Industries and Occupations Award 2010	44.2(b)
Meat Industry Award 2010	40.1
Mining Industry Award 2010	26.2
Miscellaneous Award 2010	26.3
Oil Refining and Manufacturing Award 2010	29.2
Pastoral Award 2010	26.2(b)
Professional Employees Award 2010	22.2(b)
Salt Industry Award 2010	28.2
Seafood Processing Award 2010	30.2(b)
Textile, Clothing, Footwear and Associated Industries Award 2010	43.4(b)
Vehicle Manufacturing, Repair, Services and Retail Award 2010	32.2
Waste Management Award 2010	36.3
Wool Storage, Sampling and Testing Award 2010	29.2

ⁱ Does not apply to cinema workers.

ⁱⁱ Limited to substitute of one NES public holiday for National Aboriginal Day of Celebration.