

From: Brent Ferguson [<mailto:Brent.Ferguson@aigroup.com.au>]
Sent: Wednesday, 24 August 2016 1:18 PM
To: AMOD; Chambers - Ross J
Cc: gordon.jervis@neca.asn.au; 'Guy Noble' (guy@etuaustralia.org.au); Warren Tegg; Jason O'Dwyer; Ruchi Bhatt; Stephen Crawford (stephen.crawford@nat.awu.net.au)
Subject: 4 yearly review of modern awards—Payment of wages

Dear Associate,

I write in relation to the 4 yearly review of modern awards – payment of wages AM2016/8 proceedings and refer to the associated Full Bench Statement issued on 15 August 2016.

Please find attached amended draft determinations relating to the annual leave provisions in the *Joinery and Building Products Award 2010* and the *Food Beverage and Tobacco Manufacturing Award 2010*. We apologise for the delay in filing this material.

Ai Group understands that the AMWU supports the now proposed variation to the *Food Beverage and Tobacco Manufacturing Award 2010*.

There is a minor typographical error in one of the footnotes contained in the draft determination previously filed by the Ai Group in relation to the *Electrical, Electronic and Communications Contracting Award 2010*. An amended draft determination rectifying this matter is attached. Ai Group has had discussions with the CEPU and NECA in relation to the proposed award variation and understands that both support the change.

Ai Group will file short submissions in support of the agreed variations relating to the *Food Beverage and Tobacco Manufacturing Award 2010*, in accordance with the relevant directions. We also propose to file similar submissions in support of the variation to the *Electrical, Electronic and Communications Contracting Award 2010*, given that the variation now appears to be supported by all parties.

Regards,

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DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages – Annual leave loading

(AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages – annual leave loading.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Joinery and Building Trades Award 2010*² be varied by:

1. Deleting clause 32.2(c) and inserting in lieu:

(c) The employee is not entitled to payments in respect of overtime, shift rates, special rates or any other payment which might have been payable to the employee as a reimbursement for expenses incurred.

2. Deleting clause 32.3 and inserting in lieu:

32.3 Annual leave loading

a) In addition to the payment prescribed in clause 32.2, during a period of annual leave an employee must be paid a loading of 17.5% calculated on the minimum wages, loadings and allowances by clauses 18—Classifications and minimum wages, 19—Apprentice minimum wages, 20—Adult apprentice minimum wages, 21—Trainee minimum wages, 22—Supported wage system and clauses 24.1(b), (c) and (d) as applicable and the leading hand rates prescribed by clause 24.1(a) if applicable. An employee is also entitled to the 17.5% loading on any proportionate leave on termination.

¹ [insert citation].

² MA000073.

b) An employee who would have worked on shiftwork had they not been on leave must be paid a loading equal to that prescribed in clause 32.3(a) or the shift rates prescribed by this award, whichever is the greater but not both.

B. This determination comes into effect on [insert date].

PRESIDENT

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DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages – Annual leave loading

(AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages– annual leave loading.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Food, Beverage and Tobacco Manufacturing Award 2010*² be varied by:

1. Deleting clause 34.4(c) and inserting in lieu:

(c) Subject to clause 34.5, the employee is not entitled to payments in respect of overtime, shift loading, weekend penalty rates, special rates or any other payment which might have been payable to the employee as a reimbursement for expenses incurred.

B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000073.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages – Annual leave loading

(AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages – annual leave loading.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Electrical, Electronic and Communications Contracting Award 2010*² be varied by:

1. Deleting clause 28.2(b) and inserting in lieu:

(b) Instead of the base rate of pay specified in the NES, an employee under this award, before going on annual leave, must be paid the wages they would have received in respect of the ordinary hours the employee would have worked had the employee not been on leave during the relevant period, exclusive of payments in respect of overtime, shift loading, weekend penalty rates, special rates, travel and fares or any other payment which might have been payable to the employee as a reimbursement for expenses incurred.

B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000025.