

Fair Work Act 2009
FAIR WORK COMMISSION
s. 156 – 4 yearly review of modern awards – Payment of wages

AM2016/8

AWU POSITION ON ALPINE RESORTS AWARD 2010

BACKGROUND

1. On 26 July 2019, the award review Full Bench dealing with payment of wages common issues published a Decision¹ which included procedural directions for a number of specific awards.
2. In relation to the *Alpine Resorts Award 2010* (“**Alpine Award**”), the Australian Ski Areas Association (“**ASAA**”) has opposed the insertion of the Full Bench’s model payment of wages term and has proposed a modified version of the model term which is identified at paragraph [35] of the Full Bench’s Decision.
3. The Full Bench has now² directed any parties opposing the variation sought by the ASAA to file submissions by 4pm on 30 August 2019.
4. The position of The Australian Workers’ Union (“**AWU**”) is outlined below.

ASAA VARIATION

5. Given the Alpine Award does not currently prescribe any period by which wages and other amounts must be paid upon termination of employment, the AWU acknowledges the ASAA’s proposed term would constitute an improvement to the current award terms.
6. The ASAA’s proposed term adopts most of the content of the Full Bench’s model payment of wages term but changes the maximum payment period from seven days after termination to the earlier of:

¹ [2019] FWCFB 5146.

² [2019] FWCFB 5868.

- the next usual pay cycle; or
 - 14 days.
7. Depending on the interaction between the termination date and the next usual pay cycle, this term could reduce the payment period below seven days but can also extend it to a maximum period of 14 days.
8. On balance, the AWU considers it would be preferable to insert the model payment of wages term into the Alpine Award because this will provide certainty about the maximum period an employee will have to wait for the payments and ensure the period does not exceed seven days.
9. The AWU submits the insertion of the model payment of wages term is justified and would be consistent with the modern awards objective for the following reasons:
- (i) many employees covered by the Alpine Award will relocate at the conclusion of their employment because they are only residing in alpine regions to work. In many instances, employees will leave Australia to work in other international alpine regions. It could be problematic for these employees to wait 14 days to receive their final payments and could pose logistical problems if the quantum is disputed;
 - (ii) most businesses operating alpine resorts are large-scale operations that have dedicated administrative and payroll staff. For example, an American company, Vale Resorts Inc, operates the Perisher, Mount Hotham and Falls Creek ski resorts and Kosciusko Thredbo is operated by the Greater Union Organisation which also owns Event Cinemas.³ These resorts are the largest in the industry along with Mount Buller.⁴ It is not unreasonable to require these businesses to make termination payments within seven days;
 - (iii) the Commission has previously accepted in award review proceedings that alpine resorts employ a large number of casual employees.⁵ Termination payments for these employees will generally only involve the payment of any outstanding wages as opposed to leave or severance entitlements; and

³ Transcript 31 July 2019 – Award Review - Overtime for casuals – see PN2017 to PN2038. <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/310719-am201751.htm>

⁴ Ibid at PN2004.

⁵ Cited in [2019] FWCFB 5146 at [37].

- (iv) the terms of the Alpine Award are generous to employers and do not include shift work loadings and weekend penalty rates. Any additional burden on employers arising from the insertion of the model term should be considered in this context.



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30 AUGUST 2019