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## AM2017/51 Overtime for Casuals

### Introduction

1. The AMWU files these submissions in response to draft determinations published by the Full Bench in relation to a large number of modern awards on 18 August 2020.
2. These submissions are filed in accordance with an extension of time granted on 8 September 2020.

### Background

3. On 18 August 2020 the Full Bench issued a Decision that dealt with “the identification and resolution of potential ambiguities in a number of modern awards in relation to the overtime entitlements of casual employees”.<sup>1</sup>
4. On the same day, the Full Bench published a schedule of draft determinations and called for submissions in relation to the draft determinations.
5. In respect of the modern awards that are the subject of the Decision and draft determinations, the AMWU maintains an interest in the casual employment provisions of the following awards:
  - Airline Operations – Ground Staff Award;
  - Building and Construction General On-Site Award;
  - Electrical Power Industry Award;
  - Food, Beverage and Tobacco Manufacturing Award; (**Food Award**);

<sup>1</sup> *4-Yearly Review of Modern Awards – Overtime for Casuals* [2020] FWCFB 4350.

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- Graphic Arts, Printing and Publishing Award (**Graphic Arts Award**);
- Manufacturing and Associated Industries and Occupations Award;
- Mining Industry Award;
- Oil Refining and Manufacturing Award;
- Rail Industry Award;
- Seafood Processing Award;
- Sugar Industry Award;
- Surveying Award;
- Waste Management Award;
- Water Industry Award.

## **AMWU Response to Draft Determinations**

6. The AMWU has reviewed the draft determinations published in respect of the above-named modern awards and accordingly advises the Full Bench:
  - a. The AMWU supports the approach taken by the Full Bench regarding this matter;
  - b. It considers that the draft determinations give effect to the Full Bench's Decision ([2020] FWCFB 4350).
  - c. It is not opposed to the variation of the above-named awards in accordance with the proposals set out in the draft determinations.
7. While (as stated above) the AMWU does not oppose the awards being varied as proposed, the AMWU makes the below general comments that apply to the Food Award and the Graphic Arts Award.
8. These comments were first submitted to the Full Bench on 7 September 2020 but for convenience and ease of reference, they are repeated below.

## General Comments Made in Relation to the Food Award and Graphic Arts Award

9. On 4 June 2020 the Full Bench in *AM2019/17 Finalisation of Exposure Drafts* published a Statement<sup>2</sup> stating that it is the provisional view of the Full Bench that the Graphic Arts Award should be varied in accordance with the [Report](#)<sup>3</sup> issued by Deputy President Clancy. It is the AMWU's understanding that this Determination has not yet been made.
  
10. On 15 June 2020 the Full Bench in *AM2019/17 Finalisation of Exposure Drafts* published a Statement<sup>4</sup> stating that it is the provisional view of the Full Bench that the Food Award be varied in accordance with the [Report](#)<sup>5</sup> issued by Deputy President Clancy on 11 June 2020. It is the AMWU's understanding that this Determination has not yet been made.
  
11. In light of the above, the AMWU is concerned that if the draft determinations published as part of these proceedings (AM2017/51) in respect of the Graphic Arts and Food Awards are made, the changes to those awards made by the proposed determinations will very shortly be superseded by the determinations that the AMWU understands are due to be made in respect of these same awards by the Full Bench in *AM2019/17 Finalisation of Exposure Drafts* as outlined above.
  
12. The AMWU therefore respectfully proposes that in relation to the Graphic Arts and Food Awards, the Commission proceed on either one of the following bases:
  - a. That the Full Bench in these proceedings not make the determinations as drafted in respect of the aforementioned awards until the relevant determinations are made by the Full Bench in *AM2019/17 Finalisation of Exposure Drafts*; or alternatively,

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<sup>2</sup> [2020] FWCFB 2907.

<sup>3</sup> AM2019/17 Finalisation of Exposure Drafts – Graphic Arts Award – Report to Full Bench 1 June 2020.

<sup>4</sup> [2020] FWCFB 3094.

<sup>5</sup> AM2019/17 Finalisation of Exposure Drafts – Food Award – Report to Full Bench 11 June 2020.

- b. That the Full Bench make the determinations as drafted, and there be a further round of exposure drafts (in respect of the Graphic Arts and Food Award) as part of the proceedings in *AM2019/17 Finalisation of Exposure Drafts* to take account of the changes made to the Graphic Arts and Food Awards as part of these proceedings and as set out in the relevant draft determinations.

**END**

**AMWU**

**14 September 2020**