

FAIR WORK COMMISSION
4 YEARLY REVIEW OF MODERN AWARDS – OVERTIME FOR CASUALS
(AM2017/51)
Second Submission of the combined Local Government Associations
June 2019
Local Government Industry Award 2010
(LGIA)

1. This second submission is made on behalf of the combined Local Government Associations.
2. The Local Government Associations (**Associations**) include the:
 - 2.1. Municipal Association of Victoria;
 - 2.2. Local Government Association of Tasmania;
 - 2.3. Local Government Association of South Australia;
 - 2.4. Local Government Association of Queensland;
 - 2.5. Local Government Association of the Northern Territory;
 - 2.6. Local Government and Shires Association of New South Wales; and
 - 2.7. Western Australian Local Government Association.
3. Further to our submission filed on 5 June 2019 (**First Submission**) we have held discussions with stakeholders on this matter.
4. As a result of those discussions the Associations propose amendments to the Exposure Draft of the Local Government Industry Award 2010 (**2019 Exposure Draft**), in the terms set out in **Attachment A**.
5. The purpose of the revised proposed amendments are to clarify that casual employees do not receive the casual loading when they are paid for overtime at the overtime rates.
6. As noted in our First Submission, the revised proposed amendments reflect the common understanding of the parties during the making of the modern award and the award modernisation process that casuals working overtime do not receive the overtime rate and casual loading. We drew to the Commission's attention the record of this in the 2014 Award Modernisation proceedings AM 2014/234 and attached the relevant documents to the First Submission. If required the Associations can provide the Commission with further details confirming this common understanding arising in AM2008/89 and AM2012/20.
7. The Associations also foreshadow the need for appropriate amendments to the Schedule B – Summary of Hourly Rates of Pay Tables at B.1 and B.2 in the 2019

Exposure Draft to accurately reflect the hours of work clause of the LGIA and calculation of payment of casuals for overtime. The Associations will file a separate submission to the Commission to address these amendments in due course.



Emma Clements

Employee Relations Service Manager
Western Australian Local Government Association

On behalf of the Associations

Date: 28 June 2019

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Revised proposed amendments to LGIA

ATTACHMENT A

1. Delete clause 6.5(b) of the Exposure Draft 2019 of the Local Government Industry Award (**Exposure Draft 2019**) and insert a new clause 6.5(b):

‘6.5(b) Casual loading

Except as provided in clause 6.5(c) and (d), casual employees will be paid, in addition to the minimum hourly rate and any penalty rates provided in clause 13, a casual loading of 25% of the minimum hourly rate for the classification in which they are employed as compensation instead of paid leave under this award and the NES.

The hourly rate for a casual employee entitled to penalty rates is calculated by reference to the following formula:

(minimum hourly rate x penalty rate in clause 13) + casual loading of 25% of the minimum hourly rate’

2. Delete clause 6.5(c) of the Exposure Draft 2019 and insert a new clause 6.5(c):

‘6.5(c) Payment of overtime to casuals

A casual employee will be paid overtime in accordance with clause 14, provided the rate at clause 14.2 is calculated on the minimum hourly rate exclusive of overtime. Casual loading is not paid in addition to overtime rates.

The hourly rate for a casual employee entitled to overtime rates is calculated by reference to the following formula:

minimum hourly rate x overtime rate in clause 14’

3. Insert a new clause 6.5(d) in the Exposure Draft 2019:

'6.5(d) Payment of public holiday penalties to casuals

A casual employee will be paid a public holiday penalty rate in accordance with clause 18, provided the public holiday penalty rate is calculated on the minimum hourly rate of pay exclusive of casual loading. Casual loading is not paid in addition to public holiday penalty rates.

The hourly rate for a casual employee entitled to a public holiday penalty rate is calculated by reference to the following formula:

minimum hourly rate x public holiday penalty rate in clause 18'

4. Renumber clause 6.5(d) regarding casual minimum engagement as clause 6.5(e).