

IN THE FAIR WORK COMMISSION

Matter No.: AM2018/22 Food, Beverage and Tobacco Manufacturing Award 2010

Re Application by: "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)



Food, Beverage and Tobacco Manufacturing Award 2010

4 Yearly Review of Modern Awards

COVER SHEET

About the Australian Manufacturing Workers' Union

The Australian Manufacturing Workers' Union (AMWU) is registered as the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union". The AMWU represents members working across major sectors of the Australian economy, including in the manufacturing sectors of vehicle building and parts supply, engineering, printing and paper products and food manufacture. Our members are engaged in maintenance services work across all industry sectors. We cover many employees throughout the resources sector, mining, aviation, aerospace and building and construction industries. We also cover members in the technical and supervisory occupations across diverse industries including food technology and construction. The AMWU has members at all skills and classifications from entry level to Professionals holding degrees.

The AMWU's purpose is to improve member's entitlements and conditions at work, including supporting wage increases, reasonable and social hours of work and protecting minimum award standards. In its history the union has campaigned for many employee entitlements that are now a feature of Australian workplaces, including occupational health and safety protections, annual leave, long service leave, paid public holidays, parental leave, penalty and overtime rates and loadings, and superannuation.

Lodged by: Nicholas Grealy
AMWU National Research Centre
Address for Service: Level 3, 133
Parramatta Rd, Granville NSW 2142

Telephone: +61 2 8868 1540

Email: nicholas.grealy@amwu.org.au

1. These submissions are made pursuant to the directions issued on 5 April 2019 and further to the draft determination filed by the AMWU on 29 April 2019.

Explaining “Equivalent”

2. The Food, Beverage and Tobacco Manufacturing Award 2010 (“Food Award”) sets out a classification structure at Schedule B that provides for progression based on tasks and competencies. Like other awards, it provides for recognition of relevant certificates that form part of the Australian Qualifications Framework (“AQF”), as well as “equivalent recognised enterprise or industrial experience, training or prior learning experience and/or skills”.
3. These features of the Award reflect the competency based classification system established in light of the Structural Efficiency Principle. In this sense the system has its foundation in the *National Wage Case August 1988* and the *National Wage Case Review February 1989*.¹
4. Although the *Food Award* reflects this history, its classification structure is brief and contains limited guidance for workers and employers on implementation.
5. Other awards provide a more instructive guide to assessing equivalence to relevant qualifications. The Manufacturing and Associated Industries and Occupations Award 2010, for example, provides at clause B.3.1(b)(i):

Or equivalent means:

- *any training which a registered training provider (e.g. TAFE), or State recognition authority recognises as equivalent to a qualification which Manufacturing Skills Australia recognises for this level, which can include advanced standing through recognition of prior learning and/or overseas qualifications; or*
- *where competencies meet the requirements set out in the Manufacturing Skills Australia competency standards in accordance with the National Metal and Engineering Competency Standards Implementation Guide.*

¹ *National Wage Case August 1988* (1988) 25 IR 70 (Print H400); *National Wage Case February 1989 Review* (1989) 27 IR 196 (Print H8200).

6. The Graphic Arts, Printing and Publishing Award 2010 sets out at Schedule C a competency based classification structure, and a procedure for the resolution of classification disputes.
7. The AMWU 's proposed amendments as part of this Review are measured and incremental. It is not suggested that a points system be included in the Food Award nor that an implementation guide be established. The most significant change proposed is to include an explanation of the word “equivalent” which will assist users of the Award to interpret and correctly apply the classification structure, and thereby assist in the proper recognition of competencies and facilitate skills based progression where appropriate.
8. The following explanation of “equivalent” is proposed for incorporation in the Food Award:

In this Schedule "equivalent" shall include:

- (a) any relevant qualification at the same AQF level as a qualification which is specified as the minimum training requirement for classification in this Award;*
- (b) experience, training, or skills that align with relevant competencies from the Food, Beverage & Pharmaceutical Training Package that are cumulatively equivalent to the minimum training requirement;*
- (c) experience, training, or skills that align with any other relevant AQF competencies that are cumulatively equivalent to the minimum training requirement.*

9. The Food Award presently uses the expression “or equivalent” but does not offer a definition. As a result, “equivalent” bears its ordinary meaning.²
10. In ascertaining a worker’s classification under the Food Award, one must assess a worker’s skills, training and experience as against units of competency in the specified qualification.
11. Aligning particular units of competency, while an important process in determining equivalence, is a task that could lead one to look for exact parallels between particular units, rather than having regard to the whole of a person’s qualification. The proposed amendment deals with such situations, where a comparison of each unit may lead to a

² *Viceconte v Fresh Cheese Co (Aust) Pty Ltd* [2018] FWC 6106, [32].

lengthy and complex process, and the entire qualification provides for a more straightforward comparator.

12. The amendments would allow for a more holistic assessment of a worker's competence, and in so doing assist in providing a fair and relevant safety net of terms and conditions. The amendment also serves to ensure that progression is not impeded where a person has attained the relevant level of competence.
13. The amended clause provides guidance to readers of the Food Award, in directing attention to the whole of the worker's qualification, units drawn from the directly relevant training package, or any other training package. This is consistent with the modern awards objective in recognising "the need to ensure a simple, easy to understand, stable and sustainable modern award system".

Other changes

14. A new sub-clause relating to Level 1 entitled "Pathway to Level 2" is proposed. The sub-clause will make clear that an employee must advance to Level 2 after three months of full time or part time employment, or specified appropriate periods for seasonal or casual employees.
15. Plainly Level 1 is intended as an introductory level. The level is open to workers with fewer than three months of industry or enterprise experience. The current description of Level 1 involves "up to 38 hours of induction training". The use of the words "up to" suggest that the training required to advance to Level 2 should not go beyond this period, but Level 2 then describes a "structured induction program over three months or for such shorter period as is necessary".
16. The proposed amendments remove the requirement to have completed a structured induction program, or 38 hours of induction training. Although the training is described as relevant to progression, there is no obligation on employers to provide it. If an employer fails to provided training, this could form a barrier to progression which an employee could not address.
17. The AMWU proposes that the title "Competencies" at each level set out in the Schedule be replaced by the title "Indicative tasks". The tasks listed, such as "works under general supervision" or "assists in the provision of on-the-job training in conjunction with tradespersons and supervisors/trainers or an accredited training provider", are more accurately described in this manner. They describe work performed, or the manner in which work is performed, rather than skills or abilities.

18. A further heading change is suggested for the first part of the description of each level. The word “Eligibility” should be inserted to assist the reader to more clearly set out the two parts of each classification.
19. The AMWU proposed that numerals in the descriptions of certificates be replaced with Roman numerals for consistency with the AQF terminology.

Australian Manufacturing Workers Union

10 June 2019