



REPORT

Fair Work Act 2009
s.156—4 yearly review of modern awards

4 yearly review of modern awards—*Salt Industry Award 2010* and *Wool Storage, Sampling and Testing Award 2010* (AM2019/17)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 29 NOVEMBER 2019

[1] In a decision issued on 24 October 2019¹ the *Salt Industry Award 2010* (the Salt Award) and the *Wool Storage, Sampling and Testing Award 2010* (the Wool Award) were identified as awards where casual overtime rates are contested. The Full Bench decided to delay issuing variation determinations in respect of these awards and conferences of interested parties was held on Tuesday 26 November 2019, to discuss how to proceed. [Background Papers](#) were published on 25 November 2019 in order to facilitate discussions at the conferences.

[2] The transcript of the Salt Award conference is [here](#). The transcript of the Wool Award conference is [here](#).

[3] During the conferences Ai Group, the AWU and ABI jointly proposed a course of action in respect of the finalisation of the exposure drafts (and related variation determinations) in respect of these two awards. The course of action proposed was subsequently confirmed in [correspondence](#) from Ai Group (copy at Attachment 1).

[4] Consistent with the wishes, I will refer the following matters to the Overtime for Casuals Full Bench (AM2017/51):

1. The issue of whether casual employees are entitled to the casual loading and if so, the basis upon which the relevant rates are to be calculated, during the performance of ordinary hours on a weekend, ordinary hours on a public holiday and shiftwork under the *Salt Industry Award 2010*.
2. The issue of whether casual employees are entitled to the casual loading and if so, the basis upon which the relevant rates are to be calculated, during the performance of

¹ [\[2019\]FWCFB 7173](#)

ordinary hours on a weekend, ordinary hours on a public holiday and shiftwork under the *Wool Storage, Sampling and Testing Award 2010*.

[5] The other aspects of the joint proposal set out in Ai Group's correspondence are matters for the Overtime for Casuals Full Bench and I will refer the correspondence to Vice President Hatcher for his consideration.

[6] The Commission will defer issuing determinations to vary the Salt Award and the Wool Award to reflect the relevant exposure drafts until the Overtime for Casuals Full Bench has determined the aforementioned issues.

PRESIDENT

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ATTACHMENT 1



The Australian Industry Group
51 Walker Street
North Sydney NSW 2060
PO Box 289
North Sydney NSW 2059
Australia
ABN 76 369 958 788

27 November 2019

The Hon. Justice IJK Ross
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

By email: chambers.ross.j@fwc.gov.au

Dear Justice Ross,

Re. AM2019/17 Finalisation of Exposure Drafts – Salt Industry Award 2010 and Wool, Storage, Sampling and Testing Award 2010

We refer to the above matter.

As outlined during proceedings before Your Honour on 26 November 2019, the Australian Industry Group, the Australian Workers' Union, Australian Business Industrial and the NSW Business Chamber (collectively, **Parties**) jointly propose the courses of action outlined below in respect of the finalisation of the exposure draft of the *Salt Industry Award 2010* (**Salt Award**) and the *Wool, Storage, Sampling and Testing Award 2010* (**Wool Award**).

Salt Award

1. The Full Bench as presently constituted refer the issue of whether casual employees are entitled to the casual loading and if so, the basis upon which the relevant rates are to be calculated, during the performance of ordinary hours on a weekend, ordinary hours on a public holiday and shiftwork under the Salt Award, to the Full Bench constituted to deal with AM2017/51 Overtime for Casuals (**Overtime for Casuals Full Bench**).
2. Any directions issued by the Overtime for Casuals Full Bench regarding the entitlement of casual employees during overtime under the Salt Award also contemplate the filing of submissions in respect of the issue described above at paragraph (1).
3. The Commission defer issuing a determination to vary the Salt Award to reflect the exposure draft until the Overtime for Casuals Full Bench has determined the aforementioned issues.



The Australian Industry Group
51 Walker Street
North Sydney NSW 2060
Australia
ABN 76 369 958 788

Wool Award

1. The Full Bench as presently constituted refer the issue of whether casual employees are entitled to the casual loading and if so, the basis upon which the relevant rates are to be calculated, during the performance of ordinary hours on a weekend, ordinary hours on a public holiday and shiftwork under the Wool Award, to the Overtime for Casuals Full Bench.
2. The Overtime for Casuals Full Bench deal with the Wool Award in the 'third category' of awards it is considering, instead of the 'second category' of awards.
3. Any directions issued by the Overtime for Casuals Full Bench regarding the entitlement of casual employees during overtime under the third category of awards also contemplate the filing of submissions in respect of the issue described above at paragraph (1).
4. The Commission defer issuing a determination to vary the Wool Award to reflect the exposure draft until the Overtime for Casuals Full Bench has determined the aforementioned issues.

The Parties respectfully request that if appropriate, His Honour refer the relevant aspects of its proposals above to the Overtime for Casuals Full Bench, for its consideration.

Yours sincerely,

Ruchi Bhatt
Senior Adviser – Workplace Relations Policy

cc: Chambers of Vice President Hatcher (chambers.hatcher.vp@fwc.gov.au)