

FAIR WORK COMMISSION

*Fair Work Act 2009*

**AM2019/17, AM2014/241**

**s.156 – 4 yearly review of modern awards**

**Ports, Harbours and Enclosed Water Vessels Award 2010**

**SUBMISSIONS OF THE CONSTRUCTION, FORESTRY, MARITIME, MINING &  
ENERGY UNION – THE MARITIME UNION OF AUSTRALIA DIVISION**

**Background**

1. These submissions are made by the Construction, Forestry, Maritime, Mining and Energy Union – The Maritime Union of Australia Division (**MUA**) in response to the submissions of the Australian Federation of Employers & Industries (**AFEI**) dated 5 March 2020 and questions 45-47 contained in the Statement of the Full Bench [2020] FWCFB 1539.

**Coverage – Q45**

2. AFEI notes a typographical error in clause 4.2 of the exposure draft. The Commission in matter AM2016/5 is in the process of finalising the coverage of the Ports, Harbours and Enclosed Water Vessels Award 2010. (**PHWWV Award**) Draft determinations are in a different form to those in the exposure draft. The Commission should finalise the terms of clause 4 on the basis of the submissions made in AM2014/5.

**Casual loading – Q46**

3. AFEI's complaint<sup>1</sup> that the words "pursuant to clause 18" have been left out of clause 11.2 fails to disclose that the issue of whether casual loading is payable when casuals work overtime is before the Full Bench in AM2017/51. It is notable that the wording of clause 11.2 has been in the exposure draft since 15 January 2016.
4. The proposed amendments set out in paragraph 7 should not be made at this time as the issue will be determined in AM2017/51.

**All-purpose allowance – clause 16.2(a) – Q47**

5. The MUA agrees that the dual capacity allowance is not an all-purpose allowance. The application of that allowance is correctly prescribed in clause 16.2(d).

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<sup>1</sup> AFEI submissions dated 5 March 2020 at [5] – [7].

Dated 7 April 2020

Nathan Keats  
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