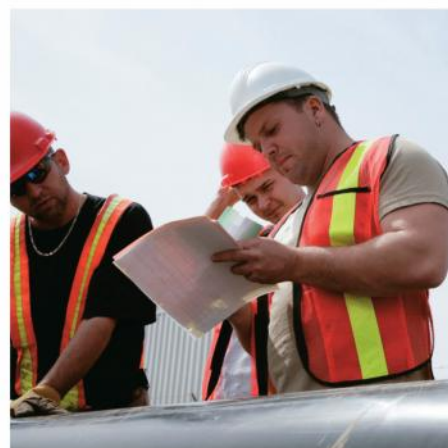


## Submission of the Australian Industry Group

11 November 2014

### 4 Yearly Review of Awards – Casual Employment, Part-time Employment and Additional Common Issues (AM2014/196, AM2014/197 and Others)



## **1. Introduction**

1. The Australian Industry Group (**Ai Group**) submits this Outline of Issues pursuant to the Statement of President Ross of 1 October 2014.
2. By way of summary, Ai Group submits:
  - There is great diversity in casual employment and part-time employment provisions throughout the modern award system;
  - Diversity is appropriate and that there should be no ‘one-size-fits-all’ approach to casual and part-time employment provisions;
  - Ai Group is seeking changes to the casual and part-time employment provisions in particular awards for reasons of relevance to the industries concerned;
  - Ai Group strongly opposes the changes to casual and part-time employment provisions that the ACTU has announced;
  - There are significant jurisdictional and preliminary issues arising from the ACTU’s domestic violence claims and “family friendly” claims. These should be dealt with as threshold matters before any proceedings are scheduled to deal with the substantive claims.

## **2. Casual and Part-time Employment**

3. There is great diversity in casual employment and part-time employment provisions throughout the modern award system.
4. Casual employment provisions vary substantially from award to award. Such variations include:
  - Whether or not a minimum engagement period is specified;
  - The length of any minimum engagement period specified;

- Whether or not casual conversion provisions are included;
  - The terms of any casual conversion provisions;
  - How overtime, shift, weekend and other penalties are calculated for casuals; and
  - How all-purpose allowances are calculated for casuals.
5. Similarly part-time employment provisions vary substantially from award to award, including:
- Whether or not a minimum engagement period is specified;
  - The length of any minimum engagement period specified;
  - The extent to which ordinary hours must be fixed;
  - Rostering arrangements for part-time employees;
  - The process for making changes to ordinary hours;
  - When part-time employees are entitled to overtime penalties; and
  - The application of various award entitlements to part-time employees and the basis on which they are calculated.
6. Diversity is appropriate for casual and part-time employment provisions given:
- Differences in the relevant industries;
  - The terms of existing modern awards in particular industries;
  - The terms of key pre-modern awards which previously operated in particular industries;
  - The classifications covered by the modern awards in particular industries;

- The different levels of casual and part-time employment in particular industries;
  - The higher costs, reduced productivity, reduced participation and other detrimental impacts upon particular industries which would result from the loss of existing award flexibilities or the imposition of restrictive new provisions.
7. Diversity is appropriate with casual and part-time employment provisions. A 'one-size-fits-all' approach is not workable or appropriate. Accordingly, Ai Group submits that casual and part-time employment provisions should not be dealt with as a common issue.
8. Ai Group strongly opposes the casual and part-time employment common issues claims that the ACTU has announced.
9. That is not to say that no changes should be made to the casual and part-time provisions in particular awards.
10. Ai Group has considered the casual and part-time employment provisions in particular awards to assess whether they reflect the needs of employers and employees in the relevant industries and whether they are consistent with the modern awards objective. The changes that we are seeking to particular awards are set out below.

- ***Alpine Resorts Award 2010***

Delete clause 10.5(b)(i) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Black Coal Industry Award 2010***

Delete clause 10.1(c) which restricts casual employment to Staff classifications and replace with the following wording:

“(c) *casual*”

- ***Building and Construction General On-site Award 2010***

Delete clause 14.8(c) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Cement and Lime Award 2010***

Delete clause 10.7(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Cleaning Services Award 2010***

Delete the first sentence of clause 12.5 and replace with the following sentence:

*“A casual employee is an employee who is engaged and paid as a casual employee.”*

- ***Concrete Products Award 2010***

Delete clause 11.6(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Cotton Ginning Award 2010***

Delete clause 10.5(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Electrical, Electronic and Communications Contracting Award 2010***

Delete clause 10.3(e)(i) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Food, Beverage and Tobacco Manufacturing Award 2010***

Delete clause 13.4(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Graphic Arts, Printing and Publishing Award 2010***

Delete clause 12.5(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Joinery and Building Trades Award 2010***

- Reduce the minimum engagement period for casuals to 3 hours
- Delete clause 12.7(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Manufacturing and Associated Industries and Occupations Award 2010***

Delete clause 14.4(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Mobile Crane Hiring Award 2010***

Delete clause 10.4(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Plumbing and Fire Sprinklers Award 2010***

Delete clause 14.3(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Quarrying Award 2010***

Delete clause 13.4(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Road Transport and Distribution Award 2010***

Delete clause 12.6(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Road Transport (Long Distance Operations) Award 2010***

- Reduce the minimum engagement period for casuals to 3 hours.
- Include part-time employment provisions in the award.

- ***Stevedoring Industry Award 2010***

Reduce the minimum engagement period for casuals to 3 hours.

- ***Sugar Industry Award 2010***

Delete clause 11.4(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Textile, Clothing, Footwear and Associated Industries Award 2010***

- Delete clause 14.1 and replace with the following clause:

***“14.1 A casual employee is an employee who is engaged and paid as a casual employee.”***

- Delete clause 14.6 regarding daily payment of wages for casuals.
- Delete the first sentence of clause 14.10 regarding maximising the number of permanent positions.
- Delete clause 14.10(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Timber Industry Award 2010***

Delete clause 12.3(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Transport (Cash in Transit) Award 2010***

Delete clause 11.6(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Vehicle Manufacturing, Repair, Services and Retail Award 2010***

Delete clause 13.3(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Waste Management Award 2010***

Delete clause 15.2 which imposes an obligation upon employers to notify employees of casual conversion rights.

- ***Wine Industry Award 2010***

Delete clause 13.5(b) which imposes an obligation upon employers to notify employees of casual conversion rights.

### **3. ACTU Domestic violence and “family friendly” claims**

11. Ai Group opposes the ACTU's domestic violence and “family friendly” claims.
12. There are significant jurisdictional and preliminary issues arising from the claims. These should be dealt with as threshold matters before any proceedings are scheduled to deal with the substantive claims.

### **4. Claims by the Association of Payroll Specialists**

13. Given the different approaches taken within different awards, in Ai Group's view the matters raised by the Association of Payroll Specialist are not appropriately dealt with as a common issue.