

AM2015/2

PRESIDENT ROSS

MELBOURNE, XX YYY 2015

Review of modern awards to be conducted.

- [1] Further to the Decision and Reasons for Decision <<DecisionRef>> in <<FileNo>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the following *Modern Awards* be varied as follows.

Aboriginal Community Controlled Health Services Award 2010 [MA000115]

Aged Care Award 2010 [MA000018]

Air Pilots Award 2010 [MA000046]

Aircraft Cabin Crew Award 2010 [MA000047]

Airline Operations-Ground Staff Award 2010 [MA000048]

Airport Employees Award 2010 [MA000049]

Alpine Resorts Award 2010 [MA000092]

Aluminium Industry Award 2010 [MA000060]

Ambulance and Patient Transport Industry Award 2010 [MA000098]

Amusement, Events and Recreation Award 2010 [MA000080]

Animal Care and Veterinary Services Award 2010 [MA000118]

Aquaculture Industry Award 2010 [MA000114]

Architects Award 2010 [MA000079]

Asphalt Industry Award 2010 [MA000054]

Banking, Finance and Insurance Award 2010 [MA000019]

Black Coal Mining Industry Award 2010 [MA000001]

Book Industry Award 2010 [MA000078]

Broadcasting and Recorded Entertainment Award 2010 [MA000091]

Building and Construction General On-site Award 2010 [MA000020]

Business Equipment Award 2010 [MA000021]

Car Parking Award 2010 [MA000095]

Cement and Lime Award 2010 [MA000055]

Cemetery Industry Award 2010 [MA000070]

Children's Services Award 2010 [MA000120]

Cleaning Services Award 2010 [MA000022]

Clerks - Private Sector Award 2010 [MA000002]

Coal Export Terminals Award 2010 [MA000045]

Commercial Sales Award 2010 [MA000083]

Concrete Products Award 2010 [MA000056]

Contract Call Centres Award 2010 [MA000023]

Corrections and Detention (Private Sector) Award 2010 [MA000110]

Cotton Ginning Award 2010 [MA000024]

Dredging Industry Award 2010 [MA000085]

Dry Cleaning and Laundry Industry Award 2010 [MA000096]

Educational Services (Post-Secondary Education) Award 2010 [MA000075]

Educational Services (Schools) General Staff Award 2010 [MA000076]
Educational Services (Teachers) Award 2010 [MA000077]
Electrical Power Industry Award 2010 [MA000088]
Electrical, Electronic and Communications Contracting Award 2010 [MA000025]
Fast Food Industry Award 2010 [MA000003]
Fitness Industry Award 2010 [MA000094]
Food, Beverage and Tobacco Manufacturing Award 2010 [MA000073]
Funeral Industry Award 2010 [MA000105]
Gardening and Landscaping Services Award 2010 [MA000101]
Gas Industry Award 2010 [MA000061]
General Retail Industry Award 2010 [MA000004]
Graphic Arts, Printing and Publishing Award 2010 [MA000026]
Hair and Beauty Industry Award 2010 [MA000005]
Health Professionals and Support Services Award 2010 [MA000027]
Higher Education Industry-Academic Staff-Award 2010 [MA000006]
Higher Education Industry-General Staff-Award 2010 [MA000007]
Horse and Greyhound Training Award 2010 [MA000008]
Horticulture Award 2010 [MA000028]
Hospitality Industry (General) Award 2010 [MA000009]
Hydrocarbons Field Geologists Award 2010 [MA000064]
Hydrocarbons Industry (Upstream) Award 2010 [MA000062]
Joinery and Building Trades Award 2010 [MA000029]
Journalists Published Media Award 2010 [MA000067]
Labour Market Assistance Industry Award 2010 [MA000099]
Legal Services Award 2010 [MA000116]
Live Performance Award 2010 [MA000081]
Local Government Industry Award 2010 [MA000112]
Mannequins and Models Award 2010 [MA000117]
Manufacturing and Associated Industries and Occupations Award 2010 [MA000010]
Marine Tourism and Charter Vessels Award 2010 [MA000093]
Marine Towage Award 2010 [MA000050]
Maritime Offshore Oil and Gas Award 2010 [MA000086]
Market and Social Research Award 2010 [MA000030]
Meat Industry Award 2010 [MA000059]
Medical Practitioners Award 2010 [MA000031]
Mining Industry Award 2010 [MA000011]
Miscellaneous Award 2010 [MA000104]
Mobile Crane Hiring Award 2010 [MA000032]
Nursery Award 2010 [MA000033]
Nurses Award 2010 [MA000034]
Oil Refining and Manufacturing Award 2010 [MA000072]
Passenger Vehicle Transportation Award 2010 [MA000063]
Pastoral Award 2010 [MA000035]
Pest Control Industry Award 2010 [MA000097]
Pharmaceutical Industry Award 2010 [MA000069]
Pharmacy Industry Award 2010 [MA000012]
Plumbing and Fire Sprinklers Award 2010 [MA000036]
Port Authorities Award 2010 [MA000051]
Ports, Harbours and Enclosed Water Vessels Award 2010 [MA000052]
Poultry Processing Award 2010 [MA000074]

Premixed Concrete Award 2010 [MA000057]
Professional Diving Industry (Industrial) Award 2010 [MA000108]
Professional Diving Industry (Recreational) Award 2010 [MA000109]
Professional Employees Award 2010 [MA000065]
Quarrying Award 2010 [MA000037]
Racing Clubs Events Award 2010 [MA000013]
Racing Industry Ground Maintenance Award 2010 [MA000014]
Rail Industry Award 2010 [MA000015]
Real Estate Industry Award 2010 [MA000106]
Registered and Licensed Clubs Award 2010 [MA000058]
Restaurant Industry Award 2010 [MA000119]
Road Transport (Long Distance Operations) Award 2010 [MA000039]
Road Transport and Distribution Award 2010 [MA000038]
Salt Industry Award 2010 [MA000107]
Seafood Processing Award 2010 [MA000068]
Seagoing Industry Award 2010 [MA000122]
Security Services Industry Award 2010 [MA000016]
Silviculture Award 2010 [MA000040]
Social, Community, Home Care and Disability Services Industry Award 2010 [MA000100]
Sporting Organisations Award 2010 [MA000082]
State Government Agencies Administration Award 2010 [MA000121]
Stevedoring Industry Award 2010 [MA000053]
Storage Services and Wholesale Award 2010 [MA000084]
Sugar Industry Award 2010 [MA000087]
Supported Employment Services Award 2010 [MA000103]
Surveying Award 2010 [MA000066]
Telecommunications Services Award 2010 [MA000041]
Telstra Award 2015 [MA000123]
Textile, Clothing, Footwear and Associated Industries Award 2010 [MA000017]
Timber Industry Award 2010 [MA000071]
Transport (Cash in Transit) Award 2010 [MA000042]
Travelling Shows Award 2010 [MA000102]
Vehicle Manufacturing, Repair, Services and Retail Award 2010 [MA000089]
Waste Management Award 2010 [MA000043]
Water Industry Award 2010 [MA000113]
Wine Industry Award 2010 [MA000090]
Wool Storage, Sampling and Testing Award 2010 [MA000044]

* Please note, the United Firefighters Union intends to make a separate determination in respect of the Fire Fighting Industry Award 2010 [MA000111]

Schedule XX –

[2] Insert a new Schedule XX as follows:

XX RETURN TO WORK PART TIME FROM PARENTAL LEAVE

X.1 Returning to work part time from parental leave

X.1.1 An employee who is returning to work after taking parental leave and who has responsibility for the care of a child is entitled, subject to this clause, to return to the position they held prior to taking parental leave:

- (a) part time; or
- (b) on reduced hours.

This is the employee's "Right to Return".

X.1.2 An employer must give effect to the employee's Right to Return, subject to the following:

- (a) Where there are substantial countervailing business grounds or where the position no longer exists, the employer must offer to accommodate the employee's return to work on reduced hours in an equivalent position commensurate in status and pay to that of the employee's substantive position and for which the employee is qualified and capable of performing.
- (b) The employer may decline to make an offer to accommodate the employee's return to work on reduced hours in an equivalent position under paragraph (a) above only on substantial countervailing business grounds.

X.1.3. The employee seeking to exercise the Right to Return shall provide written application to the employer no less than 28 days prior to the employee's due date of return to work from parental leave.

X.1.4 The employer must discuss the employee's application with the employee, and where they choose, their representative, within [14 days] of receiving the application.

X.1.5 The employer must take into account all relevant circumstances in considering the employee's application, including-

- (a) the employee's circumstances; and
- (b) the nature of the employee's role; and
- (c) the nature of the arrangements required to accommodate the circumstances or responsibilities;
- (d) the consequences for the employee of not making such accommodation; and
- (e) alternative arrangements that might address the employee's circumstances.

X.1.6 A written agreement must be provided by the employer to the employee within 7 days which records an arrangement reached under this clause and which includes, at a minimum, the following matters:

- (a) the location, hours, days and commencing and finishing times to be worked by the employee;
- (b) the classification, job description and remuneration of the work to be performed;

- (b) the period of changed work arrangements;
- (c) that the terms of the agreement may be varied by written consent; and
- (d) that all part time working arrangements are subject to the provisions of the Award.

X.1.7 Where the employee's application is refused or where the employer declines to make an offer in accordance with sub clause 1.2, the employer must provide its reasons (including evidence of its consideration of the alternative arrangements that might address the requirements of the employee) to the employee in writing within 7 days of discussing the employee's application under X.1.4.

X.2: Right to revert to position and / or work arrangements held prior to taking parental leave

X.2.1 An employee who has changed their work arrangements in accordance with clause X.1, has the right to revert to the position and / or working arrangements they held prior to taking parental leave, up to 2 years from the date of birth or placement of the child.

X.2.2 An employee who intends to revert to the position and / or working arrangements they held prior to taking parental leave upon the 2 year anniversary of the date of birth or placement of the child, shall provide no less than 28 days' notice to the employer of their intention. The employer must accommodate the employee's transition to the position and / or working arrangements they held prior to taking parental leave within 28 days of receiving the employee's notice.

X.2.3 An employee may revert to the position and / or working arrangements they held prior to taking parental leave at any time before or after 2 years from the date of birth or placement of the child by agreement with the employer.

X.2.4 The terms of the agreement, or any variation to it, must be in writing and retained by the employer. A copy of the agreement and any variation to it shall be provided to the employee by the employer.

X.3: Safe work arrangements during pregnancy

X.3.1 An employee who is pregnant may change their work arrangements (including hours, patterns, types and location of work) for the duration of their pregnancy to ensure their safety and that of their baby.

X.3.2 An employee who changes their work arrangements in accordance with this clause, is entitled to return to the position and/or work arrangements they held prior to changing their work conditions at any time by agreement with their employer.

X.4: Paid leave for the purpose of attending appointments associated with pre-natal, preadoption or permanent care orders

X.4.1 An employee shall be entitled to 2 days paid leave for the purpose of attending appointments associated with pregnancy, adoption or permanent care orders. Any leave accessed under this clause will be deducted from the employee's entitlement based on the actual time taken to attend each appointment.

X.4.2 The employee shall give his or her employer notice of the taking of the leave under this clause, and if required by the employer, evidence that would satisfy a reasonable person that the leave was for the purposes of attending an appointment associated with pre-natal, pre-adoption or permanent care orders.

X.4.3 Once paid leave has been exhausted, an employee can access accrued personal leave for the purpose of attending appointments associated with pregnancy, adoption or permanent care orders.

X.4.4 An employee is entitled to use the NES entitlement to personal / carer's leave for the purpose of providing care or support or to accompany a person taking leave to attend an appointment associated with pre-natal, pre-adoption or permanent care orders.