



15 May 2015

Fair Work Commission  
80 William St  
East Sydney 2010  
**By email:** amod@fwc.gov.au

Dear Associate,

**Consultations – Questions for Final Consultations**

**RE:** Question 8.3 – Casual Loading in the Business Equipment Award 2010

1. The AMWU submits that the casual loading in the Business Equipment Award should be increased to 25%, with effect from 1 July 2015 or within one month of a decision being reached by the Commission, whichever is earlier.

**Rate Increase to 25%**

2. The AMWU relies on its submissions to the Metal, Engineering and Associated Industries Award 1998 decision which approved an increase of the casual loading to 25% (Print T4991, (2001) 105 IR 27). These submissions highlight the disadvantages endured by casual employees and emphasises the need to ensure adequate compensation through casual loading of no less than 25%.
3. The AMWU notes that the decision AIRCFB 1000 [2008] confirmed that decision, stating that the Full Bench “consider[s] that the reasoning in that case is generally sound and that the 25 per cent loading is sufficiently common to qualify as a minimum standard.”
4. The AWMU also agrees with the decision in AIRCFB 1000 [2008] that:

*“In all the circumstances we have decided to confirm our earlier indication that we would adopt a standard casual loading of 25 per cent.”*
5. While two of the three major pre-modern Awards which now make up the Business Equipment Award (Business Equipment Industry - Technical Service - Award 1999 and the Business Equipment Industry - Clerical Officers - Award 2000) specified casual loading of 20%, these clauses had not been updated since Award simplification in 2001.

6. There are no Award conditions available to casual employees in the Business Equipment Award 2010 which could justify the rate of casual loading being below that which the full bench has adopted as a standard.
7. The work covered by the Business Equipment Award 2010 is not of a sufficiently unique or unusual nature that it could justify the rate of casual loading being below that which the full bench has adopted as a standard.
8. The AMWU therefore submits that in light of the Full Bench decision in 2008, and the clear powers granted to the FWC under s.283(3)(b) to address casual loading, the FWC should determine that the casual loading be increased to 25%

### **Timing of increase**

9. The AMWU submits that, should the casual loading be increased to 25%, it should be given effect from 1 July 2015, or within four weeks of the determination, whichever is sooner.
10. As noted by the Expert Panel in its question, the Full Bench decided that 25% should be considered a standard rate for casual loading in 2008. This has already given employers in the industry significant time to plan for what should have been an expected change to the Award.
11. Casual employees covered by this Award have already had to wait more than seven years for the “standard rate” for casual loading to be applied to their Award. Any further delay would further penalise workers who are often on very low rates of pay and, by definition, in insecure employment.
12. The increase to the casual loading will not create a significant financial burden on employers. A Level 1 Technical Employee under the Award would only see an increase in their weekly pay of \$32.93. This relatively small increase is not a significant impost on business, but can make a significant difference to low-paid casual employees.
13. A decision to apply the full 5% increase immediately also removes the potential for confusion and inadvertent underpayment that may occur if it is implemented over time. As noted by the Full Bench in 2008, 25% is already very wide spread and commonly accepted as the standard rate for casual loading. Any decision to ‘move to’ a loading of 25% would make the Business Equipment Award even more out of step than it already is.
14. The AMWU therefore submits that the full 5% increase in casual should be made promptly following any decision to increase the rate of casual loading under this Award. There has already been a significant transition period for employers, following a decision to move to a standard rate of 25% in 2008. Any transition period would create uncertainty and may result in underpayment of employees who have already received a lower rate of casual loading for more than seven

years since the Full Bench decision.

Yours sincerely,

Warren Tegg  
National Research Officer