



# CORRECTION TO STATEMENT

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards—Group 3 and 4 awards  
(AM2014/217 and others)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 1 MARCH 2016

*4 yearly review of modern awards – award stage – Group 3 and 4 awards*

The Statement issued by the Fair Work Commission on 24 February 2016 [[2016] FWC 1191] is corrected as follows:

1. By deleting the words “mid-March and mid-April 2016” in paragraph [9] and inserting the words “April and May 2016”.
2. By deleting paragraph [21] and inserting the following:

“It is proposed that the Directions issued on 2 November 2015, regarding the technical and drafting issues in the Group 3 and 4 awards, be amended and that the matters be dealt with as follows:”

PRESIDENT

Printed by authority of the Commonwealth Government Printer

<Price code A, PR577551>



# STATEMENT

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

## **4 yearly review of modern awards—Group 3 and 4 awards** (AM2014/217 and others)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 24 FEBRUARY 2016

*4 yearly review of modern awards – award stage – Group 3 and 4 awards*

[1] Section 156 of the *Fair Work Act 2009* requires the Commission to review all modern awards every four years (the Review). In the Award stage of the Review the 122 modern awards have been divided into 4 groups. The purpose of this Statement is to provide an update on the programming for the review of the 73 awards in Groups 3 and 4.<sup>1</sup> The awards allocated to Groups 3 and 4 are listed at Attachment A to this Statement.

[2] A mention was held on 14 December 2015 to consider the substantive claims made in relation to the Group 3 and 4 awards in order to determine which of these claims should be referred to separately constituted Full Benches, rather than being dealt with by the Review Full Benches which will deal with the technical and drafting issues relating to the Group 3 and 4 awards. Many of the submissions in relation to the Group 3 and 4 awards were made in early 2015 and since that time a number of issues have been resolved by decisions made as part of the Review and/or referred to other Full Benches for consideration. These matters have been noted in the [Updated summary of submissions](#).

[3] In relation to most of the substantive claims in relation to the Group 3 and 4 awards the parties agreed that it would be beneficial to hold conferences after the exposure drafts are published. The purpose of these conferences is to:

- determine any areas where there are common views;
- see what can be resolved between the parties;
- clarify the precise nature of any matters in dispute; and
- ascertain the most effective method for dealing with the issues in dispute, including whether the issues warrant going to a separately constituted Full Bench and, if so, the time required to hear any evidence in relation to the disputed matter(s).

[4] A number of issues in relation to casual and part-time employment will be referred to the Casual and Part-time Employment Full Bench in [AM2014/196](#) and [AM2014/197](#). The issue of the minimum engagement for casual swim instructors covered by the *Fitness Industry Awards 2010* will be dealt with during the award stage.

---

<sup>1</sup> See also [\[2015\] FWC 7253](#); [\[2015\] FWC 618](#); [\[2014\] FWC 8985](#); [\[2014\] FWC 8575](#).

### **Group 3**

[5] Exposure drafts for the Group 3 awards were published in two stages – those in Group 3A and 3B were published on 18 December 2015 and the Group 3C and 3D exposure drafts were published on 15 January 2016. In most cases the parties agreed there was merit in holding conferences after the exposure drafts had been published and, subject to the exceptions set out below, that is the course that will be adopted.

#### *Group 3A*

[6] The parties to the *Real Estate Industry Award 2010* have participated in a number of conferences before Commissioner Hampton. On 2 September 2015 the Commissioner provided a Report on outlining status of the issues. The outstanding issues, along with the issue of the minimum income threshold raised by the Australian Property Services Association – New South Wales Branch, will be referred to a separate Full Bench for determination. All remaining awards in Group 3A will proceed to conference.

#### *Group 3C*

[7] A number of issues were raised in relation to the *Ports, Harbours and Enclosed Water Vessels Award 2010* and the *Seagoing Award 2010*. The claims in relation to award coverage and classifications will be referred to a separately constituted Full Bench for determination.

#### *Group 3D*

[8] Commissioner Hampton has held three conferences in relation to the *Wine Industry Award 2010*. A number of issues are yet to be resolved and a further conference will be held prior to any outstanding substantive issues being referred to a Full Bench for determination.

### **Group 4**

[9] Apart from the awards listed below, the Group 4 awards have not yet been subject to any conferences or proceedings in relation to substantive claims. The exposure drafts for the Group 4 awards will not be published until April and May 2016. The parties generally agreed that it would be more efficient to hold conferences after the exposure drafts were available and that is the course which will be adopted.

#### *Group 4A*

[10] An issue relating to the Ceremonial leave provisions in two awards in Group 4A is currently being dealt with in relation to a number of awards in Group 2. Parties will be given an opportunity to make further submissions following any decision issued in respect of the Group 2 awards.

[11] At the request of the parties the substantive issues in the *Social, Community, Home Care and Disability Services Industry Award 2010* and *Supported Employment Services Industry Award 2010* will be the subject of a conference before Deputy President Booth. The timing of this conference will take into consideration the outcome of matter [AM2013/30](#) which is dealing with the issues surrounding the Business Services Wage Assessment Tool.

*Group 4B*

[12] The proposal by the Australian Manufacturing Workers' Union to make a new award covering helicopter pilots<sup>2</sup> will be referred to a separate Full Bench to determine whether a new award should be made and the terms of such an award.

*Group 4C*

[13] There are a number of claims to vary the provisions of the *Building and Construction General On-site Award 2010*, the *Plumbing and Fire Sprinklers Award 2010*, the *Joinery and Building Trade Award 2010* and the *Mobile Crane Hiring Award 2010* (collectively the 'Construction awards'). A conference will be convened by Senior Deputy President Watson in order to categorise the various issues raised in relation to the Construction awards seek to resolve the matters in dispute; and identify those matters that require referral to a separately constituted Full Bench.

*Group 4D*

[14] Birch, Carroll & Coyle Ltd and others have made submissions in relation to a number of issues affecting cinemas covered by the *Broadcasting and Recorded Entertainment Award 2010*. Following the scheduled meeting between the parties in February 2016 the employer representative is directed to forward a report to the Commission outlining the status of those issues. A separate Full Bench will be constituted to deal with the disputed issues. The other issues raised in relation to this award will be referred to Senior Deputy President Hamberger for conference.

*Group 4E*

[15] Aside from the *Professional Employees Award 2010*, which is the subject of a number of substantive claims, most of the issues in the Group 4E awards are relatively straightforward and will be dealt with by the main Group 4 Full Bench.

*Group 4F*

[16] The Shop, Distributive and Allied Employees Association (SDA) seeks to vary a number of awards in Group 4F in relation to the timing of the payment of wages. The awards which are the subject of these claims are: *Fast Food Industry Award 2010*<sup>3</sup>; *General Retail Industry Award 2010*<sup>4</sup>; *Hair and Beauty Industry Award 2010*<sup>5</sup>; and *Mannequin and Models Award 2010*.<sup>6</sup>

---

<sup>2</sup> [Correspondence](#) – AMWU – 10 December 2014

<sup>3</sup> See Items 10 and 11 in the Summary of Proposed Variations.

<sup>4</sup> See Item 10 in the Summary of Proposed Variations.

<sup>5</sup> See Item 8 in the Summary of Proposed Variations.

<sup>6</sup> See Transcript of 14 December 2015, at PN410.

## Other matters

[17] There are two other matters which are the subject of similar claims in a number of awards. The first concerns the payment of wages on termination of employment. Variations in respect of this issue have been proposed in the *Horticulture Award 2010*<sup>7</sup>; the *Supported Employment Services Award 2010*; the *Food, Beverage and Tobacco Manufacturing Award 2010*; the *Manufacturing and Associated Industries and Occupations Award 2010*; the *Storage Services and Wholesale Award 2010*; and the *Business Equipment Award 2010*.<sup>8</sup>

[18] The second matters concerns the annual leave loading provisions in certain awards. Ai Group filed an outline of proposed variations on 12 November 2015 in which it identified a number of awards that ‘appear to contain an anomaly in their annual leave clauses relating to the provisions dealing with payment of annual leave and annual leave loading’.<sup>9</sup> The awards said to be affected by this issued are: *Contract Call Centres Award 2010*; *Electrical, Electronic and Communications Contracting Award 2010*, *Food, Beverage and Tobacco Manufacturing Award 2010*; *Joinery and Building Production Award 2010*; and the *Telecommunications Services Award 2010*.

[19] These two matters will be referred to the same Full Bench constituted to deal with SDA claims referred to in paragraph 16 above.

## Summary of submissions

[20] A Revised summary of proposed variations claims will be published on the Commission’s website today to include comments and changes proposed during the mention on 14 December 2015. Changes have been marked in red for easier identification. Parties are directed to email [amod@fwc.gov.au](mailto:amod@fwc.gov.au):

- (i) to identify any errors or omissions including comments in the Notes comments regarding which issues are to be dealt with by other Full Benches; and
- (ii) inform the Commission if there are any issues in the summaries that they no longer wish to press.

## Timeline

### *Technical and drafting issues*

[21] It is proposed that the Directions issued on 2 November 2015, regarding the technical and drafting issues in the Group 3 and 4 awards, be amended and that the matters be dealt with as follows:

---

<sup>7</sup> See Item 7 of the Summary of Proposed Variations.

<sup>8</sup> See Transcript of 14 December 2015, at PN 127.

<sup>9</sup> Ai Group, ‘Group 3 and 4 Modern Awards: Outline of Proposed Variations’, 12 November 2015, at para 5.

<b>Proposed Timeline</b>	
<b>Group 3 Awards</b>	
<b>2015</b>	
18 December	Group 3A and B exposure drafts published
<b>2016</b>	
15 January	Group 3C and D exposure drafts published
31 March	Submissions on drafting and technical issues in Group 3 exposure drafts
28 April	Submissions in reply on drafting and technical issues in Group 3 exposure drafts
20 May	Summaries of submissions to be published on website
6-7 June	Hearings re drafting and technical issues in Group 3 awards
<b>Group 4 Awards</b>	
<b>2016</b>	
April	Group 4A, B and C exposure drafts to be published.
May	Group 4D, E and F exposure drafts to be published.
23 June	Submissions on drafting and technical issues in 4A, B and C exposure drafts
14 July	Submissions in reply on drafting and technical issues in 4A, B and C exposure drafts
21 July	Submissions on drafting and technical issues in 4D, E and F exposure drafts
August	Hearings re drafting and technical issues in Group 4A, B and C awards
18 August	Submissions in reply on drafting and technical issues in 4D, E and F exposure drafts
October	Hearings re drafting and technical issues in Group 4D, E and F awards

[22] Dates for conferences and any subsequent Full Bench proceedings will be issued in due course.

[23] Interested parties are invited to comment on the proposed timeline by no later than **4.00pm on Thursday 3 March 2016**. Any comments are to be forwarded to [amod@fwc.gov.au](mailto:amod@fwc.gov.au).

PRESIDENT

Printed by authority of the Commonwealth Government Printer

<Price code C, PR577345>

## ATTACHMENT A

## Group 3 awards divided by sub-group

Award code	Award title	Matter No.
<b>Sub-group 3A</b>		
<a href="#">MA000019</a>	<i>Banking, Finance and Insurance Award 2010</i>	<a href="#">AM2014/217</a>
<a href="#">MA000021</a>	<i>Business Equipment Award 2010</i>	<a href="#">AM2014/218</a>
<a href="#">MA000002</a>	<i>Clerks Private Sector Award 2010</i>	<a href="#">AM2014/219</a>
<a href="#">MA000083</a>	<i>Commercial Sales Award 2010</i>	<a href="#">AM2014/221</a>
<a href="#">MA000023</a>	<i>Contract Call Centres Award 2010</i>	<a href="#">AM2014/222</a>
<a href="#">MA000094</a>	<i>Fitness Industry Award 2010</i>	<a href="#">AM2014/227</a>
<a href="#">MA000099</a>	<i>Labour Market Assistance Industry Award 2010</i>	<a href="#">AM2014/232</a>
<a href="#">MA000116</a>	<i>Legal Services Award 2010</i>	<a href="#">AM2014/233</a>
<a href="#">MA000030</a>	<i>Market and Social Research Award 2010</i>	<a href="#">AM2014/236</a>
<a href="#">MA000104</a>	<i>Miscellaneous Award 2010</i>	<a href="#">AM2014/237</a>
<a href="#">MA000106</a>	<i>Real Estate Industry 2010</i>	<a href="#">AM2014/242</a>
<a href="#">MA000082</a>	<i>Sporting Organisations Award 2010</i>	<a href="#">AM2014/245</a>
<a href="#">MA000041</a>	<i>Telecommunications Services Award 2010</i>	<a href="#">AM2014/248</a>
<b>Sub-group 3B</b>		
<a href="#">MA000075</a>	<i>Educational Services (Post-Secondary Education) Award 2010</i>	<a href="#">AM2014/224</a>
<a href="#">MA000076</a>	<i>Educational Services (Schools) General Staff Award 2010</i>	<a href="#">AM2014/225</a>
<a href="#">MA000006</a>	<i>Higher Education – Academic Staff Award 2010</i>	<a href="#">AM2014/229</a>
<a href="#">MA000007</a>	<i>Higher Education – General Staff Award 2010</i>	<a href="#">AM2014/230</a>
<a href="#">MA000112</a>	<i>Local Government Industry Award 2010</i>	<a href="#">AM2014/234</a>
<a href="#">MA000121</a>	<i>State Government Agencies Administration Award 2010</i>	<a href="#">AM2014/246</a>
<b>Sub-group 3C</b>		
<a href="#">MA000045</a>	<i>Coal Export Terminals Award 2010</i>	<a href="#">AM2014/220</a>
<a href="#">MA000085</a>	<i>Dredging Industry Award 2010</i>	<a href="#">AM2014/223</a>
<a href="#">MA000088</a>	<i>Electrical Power Industry Award 2010</i>	<a href="#">AM2014/226</a>
<a href="#">MA000050</a>	<i>Marine Towage Award 2010</i>	<a href="#">AM2014/235</a>
<a href="#">MA000051</a>	<i>Port Authorities Award 2010</i>	<a href="#">AM2014/240</a>

<b>Award code</b>	<b>Award title</b>	<b>Matter No.</b>
<a href="#">MA000052</a>	<i>Ports, Harbours and Enclosed Water Vessels Award 2010</i>	<a href="#">AM2014/241</a>
<a href="#">MA000122</a>	<i>Seagoing Industry Award 2010</i>	<a href="#">AM2014/243</a>
<b>Sub-group 3D</b>		
<a href="#">MA000101</a>	<i>Gardening and Landscaping Services Award 2010</i>	<a href="#">AM2014/228</a>
<a href="#">MA000028</a>	<i>Horticulture Award 2010</i>	<a href="#">AM2014/231</a>
<a href="#">MA000033</a>	<i>Nursery Award 2010</i>	<a href="#">AM2014/238</a>
<a href="#">MA000035</a>	<i>Pastoral Award 2010</i>	<a href="#">AM2014/239</a>
<a href="#">MA000040</a>	<i>Silviculture Award 2010</i>	<a href="#">AM2014/244</a>
<a href="#">MA000087</a>	<i>Sugar Industry Award 2010</i>	<a href="#">AM2014/247</a>
<a href="#">MA000090</a>	<i>Wine Industry Award 2010</i>	<a href="#">AM2014/249</a>

**Group 4 awards divided by sub-group<sup>1</sup>**

<b>Award code</b>	<b>Award title</b>	<b>Matter No.</b>
<b>Sub-group 4A</b>		
<a href="#">MA000115</a>	<i>Aboriginal Community Controlled Health Services Award 2010</i>	<a href="#">AM2014/250</a>
<a href="#">MA000018</a>	<i>Aged Care Award 2010</i>	<a href="#">AM2014/251</a>
<a href="#">MA000120</a>	<i>Children's Services Award 2010</i>	<a href="#">AM2014/263</a>
<a href="#">MA000077</a>	<i>Educational Services (Teachers) Award 2010</i>	<a href="#">AM2014/266</a>
<a href="#">MA000025</a>	<i>Electrical, Electronic and Communications Contracting Award 2010</i>	<a href="#">AM2014/265</a>
<a href="#">MA000100</a>	<i>Social, Community, Home Care and Disability Services Industry Award 2010</i>	<a href="#">AM2014/285</a>
<a href="#">MA000103</a>	<i>Supported Employment Services Award 2010</i>	<a href="#">AM2014/286</a>
<b>Sub-group 4B</b>		
<a href="#">MA000046</a>	<i>Air Pilots Award 2010</i>	<a href="#">AM2014/252</a>
<a href="#">MA000047</a>	<i>Aircraft Cabin Crew Award 2010</i>	<a href="#">AM2014/253</a>
<a href="#">MA000048</a>	<i>Airline Operations—Ground Staff Award 2010</i>	<a href="#">AM2014/254</a>
<a href="#">MA000049</a>	<i>Airport Employees Award 2010</i>	<a href="#">AM2014/255</a>
<b>Sub-group 4C<sup>2</sup></b>		
<a href="#">MA000079</a>	<i>Architects Award 2010</i>	<a href="#">AM2014/257</a>
<a href="#">MA000020</a>	<i>Building and Construction General On-site Award 2010</i>	<a href="#">AM2014/260</a>
<a href="#">MA000064</a>	<i>Hydrocarbons Field Geologists Award 2010</i>	<a href="#">AM2014/273</a>
<a href="#">MA000029</a>	<i>Joinery and Building Trades Award 2010</i>	<a href="#">AM2014/274</a>



<b>Award code</b>	<b>Award title</b>	<b>Matter No.</b>
<a href="#">MA000032</a>	<i>Mobile Crane Hiring Award 2010</i>	<a href="#">AM2014/278</a>
<a href="#">MA000036</a>	<i>Plumbing and Fire Sprinklers Award 2010</i>	<a href="#">AM2014/280</a>
<a href="#">MA000066</a>	<i>Surveying Award 2010</i>	<a href="#">AM2014/287</a>
<b>Sub-group 4D</b>		
<a href="#">MA000080</a>	<i>Amusement, Events and Recreation Award 2010</i>	<a href="#">AM2014/256</a>
<a href="#">MA000078</a>	<i>Book Industry Award 2010</i>	<a href="#">AM2014/258</a>
<a href="#">MA000091</a>	<i>Broadcasting and Recorded Entertainment Award 2010</i>	<a href="#">AM2014/259</a>
<a href="#">MA000067</a>	<i>Journalists Published Media Award 2010</i>	<a href="#">AM2014/275</a>
<a href="#">MA000081</a>	<i>Live Performance Award 2010</i>	<a href="#">AM2014/276</a>
<a href="#">MA000013</a>	<i>Racing Clubs Events Award 2010</i>	<a href="#">AM2014/282</a>
<a href="#">MA000102</a>	<i>Travelling Shows Award 2010</i>	<a href="#">AM2014/288</a>
<b>Sub-group 4E</b>		
<a href="#">MA000095</a>	<i>Car Parking Award 2010</i>	<a href="#">AM2014/261</a>
<a href="#">MA000070</a>	<i>Cemetery Industry Award 2010</i>	<a href="#">AM2014/262</a>
<a href="#">MA000073</a>	<i>Food, Beverage and Tobacco Manufacturing Award 2010</i>	<a href="#">AM2014/268</a>
<a href="#">MA000105</a>	<i>Funeral Industry Award 2010</i>	<a href="#">AM2014/269</a>
<a href="#">MA000097</a>	<i>Pest Control Industry Award 2010</i>	<a href="#">AM2014/279</a>
<a href="#">MA000065</a>	<i>Professional Employees Award 2010</i>	<a href="#">AM2014/281</a>
<a href="#">MA000113</a>	<i>Water Industry Award 2010</i>	<a href="#">AM2014/289</a>
<b>Sub-group 4F</b>		
<a href="#">MA000096</a>	<i>Dry Cleaning and Laundry Industry Award 2010</i>	<a href="#">AM2014/264</a>
<a href="#">MA000003</a>	<i>Fast Food Industry Award 2010</i>	<a href="#">AM2014/267</a>
<a href="#">MA000004</a>	<i>General Retail Industry Award 2010</i>	<a href="#">AM2014/270</a>
<a href="#">MA000005</a>	<i>Hair and Beauty Industry Award 2010</i>	<a href="#">AM2014/271</a>
<a href="#">MA000009</a>	<i>Hospitality Industry (General) Award 2010</i>	<a href="#">AM2014/272</a>
<a href="#">MA000117</a>	<i>Mannequins and Models Award 2010</i>	<a href="#">AM2014/277</a>
<a href="#">MA000058</a>	<i>Registered and Licensed Clubs Award 2010</i>	<a href="#">AM2014/283</a>
<a href="#">MA000119</a>	<i>Restaurant Industry Award 2010</i>	<a href="#">AM2014/284</a>