

**From:** Simon Miller [mailto:Simon.Miller@afap.org.au]

**Sent:** Thursday, 19 April 2018 11:45 AM

**To:** AMOD

**Cc:** Chambers - Gostencnik DP; Simon Lutton; Joanne Janes; Andrew Molnar; James Mattner; Cate Larkins; Marcus Diamond; Kathy Srdanovic (kathy.srdanovic@ashurst.com); jon.lovell@ashurst.com; Ruchi Bhatt (ruchi.bhatt@aigroup.com.au)

**Subject:** 4 Yearly Award Review of Modern Awards - Air Pilots Award 2010: Submission on Matters Arising from the Decision of the Full Bench of the Fair Work Commission [2018] FWC 1548 (21 March 2018)

Dear Award Modernisation Team/Associate to Deputy President Gostencnik,

We refer to paragraphs [43] to [67] (pages 14-17) of the decision of the Full Bench of the Fair Work Commission in the 4 Yearly Review of Awards – Group 4 Awards on 21 March 2018 ([2018] FWC 1548), concerning the *Air Pilots Award 2010*.

Please find attached a submission (in both Word and Pdf versions) from the Australian Federation of Air Pilots on matters arising from the decision.

Please contact me at the details below should you have any queries arising from this submission, or wish to discuss further.

Thank you for your assistance.

Yours sincerely,

**Simon Miller**  
Industrial Advisor



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19 April 2018

Deputy President Val Gostencnik  
Fair Work Commission

**By email:** [chambers.gostencnik.dp@fwc.gov.au](mailto:chambers.gostencnik.dp@fwc.gov.au)

Dear Deputy President Gostencnik

#### **4 Yearly Review of Modern Awards - Air Pilots Award 2010**

#### **Matters Arising From the Decision of the Full Bench of the Fair Work Commission in [2018] FWC 1548 (21 March 2018)**

We refer to the decision of the Full Bench of the Fair Work Commission in the 4 Yearly Review of Awards – Group 4 Awards on 21 March 2018 ([2018] FWC 1548) (“**decision**”), specifically paragraphs [43] to [67] (pages 14-17) concerning the *Air Pilots Award 2010* (“**Award**”).

Noting the invitation of the Full Bench at paragraph [765] of the decision to comment on matters raised in the decision (and specifically paragraph [61] concerning casual hourly rates under the Award), we now make the following submissions (referring to the specific items contained in the *Revised Summary of Submissions – Technical and Drafting* (republished 7 September 2017):

(i) *Item 13 – Casual Employment*

We support the Full Bench’s suggestion at paragraph [60] of the inclusion of an example in the Exposure Draft, believing that it will provide helpful guidance concerning hourly rates of pay for casual employees under the Award.

We do, however, have a suggestion for a slight change to the example selected to make it more realistic, as follows:

Current example:

**Example – Casual hourly rate for casual airlines/general aviation employees**

Emma is a casual pilot paid an hourly rate derived from the minimum salaries in Schedule A of the award.

The annual salary for a full-time pilot under the classification of Captain, Multi engine 3360 kg UTBNI 5660 kg is \$50,960.

Emma is entitled to an addition to salary under clause A.1.3 of \$1481.28 per annum.

The formula to calculate her hourly casual rate under clause 9.2 and 9.3 of the award is:

(Annual salary + annual applicable addition to salary) divided by 800 = hourly rate



Hourly rate x casual loading = casual hourly rate

### Calculating Emma's casual hourly rate:

**Step 1:** (annual salary + annual applicable addition to salary) = \$52,441.28

**Step 2:** \$52,441.28 / 800 = \$65.55 per hour (hourly rate)

**Step 3:** \$65.55 x 1.25 = \$81.94 per hour (casual hourly rate)

Emma's casual hourly rate of pay is \$81.94\* per hour.

*\*Emma's actual rate of pay may differ based on other allowances that may be payable under the Air Pilots Award.*

Proposed example (suggestions marked in track changes):

### Example – Casual hourly rate for casual airlines/general aviation employees

Emma is a casual pilot paid an hourly rate derived from the minimum salaries in Schedule A of the award. Emma flies a Cessna 404 Titan (a piston engine aircraft with a maximum take-off weight of 3810kg) on commuter operations and holds, and is required to hold, a command instrument rating.

The annual salary for a full-time pilot under the classification of Captain, Multi engine 3360 kg UTBNI 5660 kg is \$50,960.

Emma is entitled to an addition to salary under clause A.1.3 of \$1481.28 per annum and clause A.1.4 of \$5925.10.

The formula to calculate her hourly casual rate under clause 9.2 and 9.3 of the award is:

(Annual salary + annual applicable additions to salary) divided by 800 = hourly rate



Hourly rate x casual loading = casual hourly rate

### Calculating Emma's casual hourly rate:

**Step 1:** (annual salary + annual applicable additions to salary) = ~~\$52,441.28~~\$58,366.38

**Step 2:** ~~\$52,441.28~~\$58,366.38 / 800 = ~~\$65.55~~\$72.96 per hour (hourly rate)

**Step 3:** ~~\$65.55~~\$72.96 x 1.25 = ~~\$81.94~~\$91.20 per hour (casual hourly rate)

Emma's casual hourly rate of pay is ~~\$81.94~~\$91.20\* per hour.

*\*Emma's actual rate of pay may differ based on other allowances that may be payable under the Air Pilots Award.*

The reason for the inclusion of the extra addition to salary drawn from clause A.1.4 is that it would be a requirement for a pilot "flying a piston engine aircraft engaged on commuter operations" under clause A.1.3 (\$1481.28) to also hold, and be required to hold, a "Command of Class 1" instrument flying rating under clause A.1.4 (\$5925.10).

(ii) *Substantive Matters*

We note the Full Bench's reference to the two items in the Revised Summary of Proposed Substantive Variations (republished 13 November 2017) that remain outstanding and require consideration by a separate Full Bench.

We await the Full Bench's confirmation on when these matters will be considered.

We trust that this submission is of assistance to the Commission.

Please contact Simon Miller of this office at [smiller@afap.org.au](mailto:smiller@afap.org.au) or on (03) 9928 5737 or should you have any queries or wish to discuss these matters further.

Yours sincerely,



Simon Lutton  
Executive Director