

Exposure Draft of the Airport Employees Award 2016 [MA49]

Submission of the Australian Manufacturing Workers' Union (AMWU)

1. This submission is made in respect of the exposure draft of the Airport Employees Award 2016 as posted by the Fair Work Commission (FWC) on 2nd June, 2016 (the exposure draft).
2. References below to various questions are to those questions posed within boxes which are shaded in green within the exposure draft.
3. The AMWU covers employees within the exposure draft's classification stream of Technical Services Officers. The feedback it provides in this submission are made exclusively from that perspective. For this reason, the AMWU does not address all of the questions posed within the exposure draft.

Question on Pages 3 and 67 of the Exposure Draft

4. The conversion of annual rates to weekly rates (and back again) was at issue when the (modern) Airport Employees Award 2010 was first made.
5. The annual rate stated for the Technical Services Officer Level 1 when that award was first made was \$33,156.
6. The AMWU and the Community and Public Sector Union (the joint unions) subsequently and jointly applied to vary that award.¹
7. Paragraphs 7 to 9 inclusive of the joint unions' submission in support of the application addressed minimum rates of pay. They read:
 7. *The joint unions understand the annual rates of salary in clause 15.1 of the proposed award were calculated according to the following six steps:*
 - Step 1 : Take a 2005 annual salary rate from the current award.*
 - Step 2 : Divide that rate by 52.1666 to get the weekly rate.*
 - Step 3 : Add the 2006 Wages and Allowances decision to the rate at step 2.*
 - Step 4 : Add the 2007 Wages and Allowances decision to the rate at step 3.*
 - Step 5 : Add the 2008 Wages and Allowances decision to the rate at step 4.*
 - Step 6 : Multiply the weekly rate at Step 5 by 52 to get the annual salary rate.*

¹ AM2009/100

8. *With respect, the divisor at Step 1 and the multiplier at Step 6 should be the same, either 52.1666 or 52. The first divisor/multiplier would be consistent with clause 30.6(f) of the proposed modern award and the latter divisor/multiplier with the definition of standard rate in that proposed award's clause 3.1. The joint unions believe the first divisor/multiplier to be appropriate and consistent with the traditions of the current award.*
9. *Application of the six steps at paragraph [7] above when consistently applying 52.1666 as the divisor/multiplier would result in the following outcomes for the 100% rate (Technical Services Officer Level 1A) in the current award:*

Step 1 : \$30,164 per annum

Step 2 : \$578.20 per week

Step 3 : \$605.60 per week

Step 4 : \$615.90 per week

Step 5 : \$637.60 per week

Step 6 : \$33,261 per annum.

8. At paragraph [4] of its decision,² the full bench wrote:

The AMWU and CPSU submit that the method of calculating current salaries following the addition of weekly wage adjustments in the Airport Employees Award 1999 was in error because a different divisor (52.1666) was used for converting the annual salary to a weekly amount [and] the multiplier (52) for converting the weekly rate back to an annual salary. We accept that the same factor should be used and will vary the modern award accordingly.

9. It is the AMWU's understanding that the divisor finally adopted by the full bench was 52.1666, which is consistent with the formula at clause 22.3(b) of the exposure draft. Certainly, the annual rate of \$33,261 that it ultimately adopted for the Technical Services Officer Level 1 was consistent with application of that divisor.
10. The AMWU notes that the minimum hourly rates at clause 19.1 of the exposure draft appear to have been derived consistent with the formula at clause 22.3(b) of that draft.
11. Accordingly, the AMWU believes that the answer to the question on both pages 3 and 67 is yes.

² [2010] FWA FB 286

Question on Page 12 of the Exposure Draft.

12. Under clause 17.3(d) of the exposure draft, the meal breaks for shiftworkers are paid.
13. It is the AMWU's understanding that meal breaks for employees other than shiftworkers are unpaid.

Question on Page 21 of the Exposure Draft.

14. The AMWU does not have strong views about this question. It tentatively suggests two alternatives, subject to the views of other parties.
15. The first alternative would be to delete the second dot point at clause 20.3(d)(v) of the exposure draft (moving the "or" which follows its semi-colon to the end of the first dot point).
16. The second alternative would be to expand the second dot point at clause 20.3(d)(v) to read along the following lines:
 - “ • a motor vehicle allowance for each kilometre travelled, the rate of such allowance being as stated in Schedule 1 to the *Income Tax Assessment Regulations 1997 as varied from time to time*”.

Question on Page 35 of the Exposure Draft.

17. Clause 27.8(a) of the exposure draft specifies a circumstance in which an employee is entitled to a rostered day off (RDO) in addition to a public holiday.
18. Clause 27.8(b) specifies what happens if the RDO cannot be taken, such that the two available leisure days are reduced to one.
19. It is the AMWU's strong view that the payment at clause 27.8(b) must be additional to the payment for the public holiday (the latter payment being at other than penalty rates, because it is not worked). If it were otherwise, the employee concerned would receive the benefit of two days off under clause 27.8(a) but only one without off-setting compensation under clause 27.8(b).

20. The AMWU notes that the RDO would generally be available consistent with the averaging of hours referred to in clause 16.1 and 17.2(a) of the exposure draft, such that in some weeks the employee would have worked beyond 38 ordinary hours in order to accrue time to be taken later as an RDO. Were payment in addition to that for the public holiday not to be made under clause 27.8(b), the employee would have worked those additional ordinary time hours without compensation.

One Perceived Inconsistency

21. The AMWU perceives an inconsistency between the wording of clause 24.8(a) and 24.8(b)9i) of the exposure draft. (It is acknowledged that this inconsistency exists within the extant award.)

22. Under clause 24.8(a), an employee is to be paid a loading during a period of annual leave (which could be taken at various times of the year, perhaps in multiple instalments), whereas under clause 24.8(b)(i) the loading is to be paid once annually in December, whether or not leave is to be taken at that time.

23. The perceived inconsistency could be resolved by:

- having clause 24.8(a) commence: *“In relation to annual leave an employee must be paid”*; and
- amending the second line of clause 24.8(b)(ii) to read: *“leave must be paid a loading during that leave equal to ...”*

Minor Corrections

24. The following matters in the exposure draft might be corrected:

- the word “shall” is used in clause 12.8 (whereas the word “will” is otherwise used consistently);
- the word “dependant” is misspelt in clause 20.3(d)(ii) and in the table in C.1 of Schedule C;
- there is a reference to “clause O” in clause 22.6(f), which the AMWU believes should be a reference to clause 22.5.

25. The AMWU suggests that the text in the left hand column of the last row of the table in clause 20.3(f)(ii) might be clearer if amended to read:

“Where a separate meter is installed which records only electricity consumption of the air conditioning system”.

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