



30 September 2016

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

Dear Associate,

Re: AM2014/268 Food, Beverage and Tobacco Manufacturing Award 2010 4 Yearly Review of Modern Awards

1. Further to its correspondence 2 February 2015 in this matter AM2014/268, the AMWU provides the following brief outline of submissions in accordance with the Statement and Directions¹ issued by Justice Ross 26 August 2016.
2. The AMWU wishes to inform the Commission that it intends to pursue the following matters in relation to the Food, Beverage and Tobacco Manufacturing Award 2010:
 - a. Shift allowances
 - b. Span of hours
3. The AMWU intends to make more comprehensive submissions about these issues in this Award at the appropriate time. However, in accordance with the Statement and Directions a brief outline is provided below along with a draft variation for Shift Allowances attached at the end of this correspondence.

Shift allowances

4. The AMWU will seek to vary the shift allowances clause to address the inequality created by clauses 31.3 (b), (c) and (d) between workers engaged on night shift work.
5. The current drafting of the clause encourages variation of rosters in order to lower the night shift loading in such a way that is detrimental to workers.

¹ <https://www.fwc.gov.au/documents/decisionssigned/html/2016fwc6062.htm>

6. The AMWU intends to run an evidentiary case to support this variation, with only a small number of witnesses to be called.

Span of hours

7. The span of hours issue was raised in the Hydrocarbons Industry (Upstream) Award 2010. In accordance with paragraph 159 of the decision [2015] FWCFB 7236, “the issue will be reconsidered at the conclusion of the Award stage of the Review, together with any other award provisions where a similar issue has arisen.”
8. As such, the AMWU submits that the span of hours issue in the Food Award should be dealt with in the same process outlined in that decision.

Yours sincerely,

Warren Tegg
National Research Officer

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FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

Part 2-3, Div 4 – 4 Yearly reviews of modern awards

Food, Beverage and Tobacco Manufacturing Award 2010

(ODN AM2014/268) MA000073

SYDNEY, XX YY 2016

Review of modern awards to be conducted.

A. Further to the Decision and Reasons for Decision <<Decision Ref>> in <<File No>>, it is determined pursuant to section 156(2)(b)(i) of the *Fair Work Act 2009*, that the *Food Beverage and Tobacco Manufacturing Award 2010* be varied as follows.

[1] Delete clause 31.3 and replace with the following:

31.3 Shift allowances

(a) An employee who works on early morning shift must be paid 12.5% extra for such shift;

(b) An employee who works on afternoon shift must be paid 15% extra for such shift.

(c) An employee who works on night shift must be paid 30% extra for such shift.

(d) An employee who works on an afternoon or night shift which does not continue:

(i) for at least five successive afternoon or night shifts or six successive afternoon or night shifts in a six day workshop (where no more than eight ordinary hours are worked on each shift); or

(ii) for at least 38 ordinary hours (where more than eight ordinary hours are worked on each shift and the shift arrangement is in accordance with clauses [30.3](#) or [30.4](#)),

must be paid for each shift 50% extra for the first three hours and 100% extra for the remaining hours.

- [2]** This determination shall operate on and from the first pay period following XX YY 2016.

PRESIDENT