

20 January 2017

Award Modernisation Team
Fair Work Commission
Level 10, Terrace Tower, 80 William Street
East Sydney NSW 2011
By email: amod@fwc.gov.au

Re: AM2014/268 AWU submissions on the Exposure Draft for the *Food, Beverage and Tobacco Manufacturing Award 2010*

BACKGROUND

1. These submissions of the Australian Workers' Union (AWU) are made pursuant to the Amended Directions of Justice Ross, President of the Fair Work Commission, issued on 21 December 2016 in AM2014/250 and others.
2. Parties are directed to file submissions on drafting and technical issues in the exposure drafts for Group 4D, 4E and 4F awards by 18 January 2017. The submissions that follow refer to the exposure draft for the *Food, Beverage and Tobacco Manufacturing Award 2010* ('the Exposure Draft') as published on 16 November 2016.

DRAFTING AND TECHNICAL ISSUES

Ordinary hours of work – continuous shiftworkers

3. Clause 12.3(a): The AWU notes that this clause contains a typo regarding the term "worked".

Types of employment and classifications

4. Clause 9.3: With regard to part-time employment, this clause provides the only requirement for agreements before starting employment to be in writing.
5. The AWU submits that this ought to be a requirement regardless of classification at commencement, but also in the event of change to classification.
6. We suggest the insertion of the following new clause:

On commencement of employment, an employer must advise an employee in writing of their classification level to which the employee is appointed. If there are any changes to the classification level to which the employee is appointed, the employer must also advise of those changes in writing.

7. We also suggest clause 9 be amended so that the matters at clause 9.3(a) to (d) also apply in the case of full time employment.

Ordinary hours for casual employees

8. Clause 10.1: The employment types in this Award are full-time, part time and casual. It is not clear what the ordinary hours for casual employees are. Section 147 of the *Fair Work Act 2009* requires the following:

A modern award must include terms specifying, or providing for the determination of, the ordinary hours of work for each classification of employee covered by the award and each type of employment permitted by the award.

9. We therefore propose the following additional words at clause 10.1:

...and works less than 38 ordinary hours per week.

10. Similarly, but for clarification only, clause 8 in regards to full-time employment could be improved by the insertion of the following wording: *A full time employee may be engaged for up to 38 ordinary hours per week.*

Definition of shiftworker

11. Clause 12.3 and 23.1(a): In response to the Commission's question, the AWU does not have a particular view but considers any definition of 'shiftworker' ought to be consistent with the *Manufacturing and Associated Industries and Occupations Award 2010*.

Loading whilst on annual leave

12. Clause 24.5: In response to the Commission's comment, the AWU considers that the loading rate ought to be applied on a daily basis so that each day stands alone.
13. This would ensure consistent treatment of the loading for when employees take single days of annual leave, and that employees receive the most beneficial outcome.



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