



# MASTER PLUMBERS ASSOCIATION OF NSW<sup>®</sup>

*"Serving the nation for over 100 years"*

## The Master Plumbers and Mechanical Contractors Association of NSW<sup>®</sup>

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

### **4 Yearly Review of Modern Awards - AM2014/280**

Exposure Draft – Plumbing and Fire Sprinklers Award 2016 – Drafting and Technical Issues Submissions

**The Fair Work Commission**  
30 June 2016

**THE MASTER PLUMBERS & MECHANICAL CONTRACTORS ASSOCIATION OF NEW SOUTH WALES**

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1. MPA notes that the proceedings in AM2014/196 Part-time employment provisions, AM2014/197 casual employment provisions, AM2014/47 Annual Leave, AM2014/301 Part-day Public Holidays and AM2014/300 Award Flexibility may affect the provisions in the Plumbing and Fire Sprinklers Award 2016.
2. *Clause 15.3 states: Early start (a) By agreement between the employer and its employees, the working day may begin at 6.00 am or at any other time between that hour and 8.00 am and the working time will then begin to run from the time so fixed.*  
**“Parties are asked whether clause 15.3—Early start should specify ‘a majority of employees’?”**

3. MPA submits that an early start should be by agreement with the individual employee.

Example: Each employee may have personal circumstances or reasons that have to be taken into consideration on case by case basis such as family responsibilities, child care arrangements or health requirements.

4. *Clause 13.13 states: (d) Employment as an adult apprentice*
  - (i) *Where possible, employment as an adult apprentice should be given to an applicant who is currently employed by the employer so as to provide for genuine career path development.*
  - (ii) *Adult apprentices will not be employed at the expense of other apprentices.***“Parties are asked whether clause 13.14(d)(ii) is permitted in an award.”**
5. Section 136 of the Fair Work Act 2009 stipulates that a modern award must not include terms that contravene:
  - (a) Subdivision D (which deals with terms that must not be included in modern awards); or
  - (b) section 55 (which deals with the interaction between the the National Employment Standards and a modern award or enterprise agreement).
6. MPA is of the view that clause 13.14 (d)(ii) does not contravene section 136 and satisfies section 139 thus is permitted. MPA notes that this provision has already been in existence in the Plumbing and Fire Sprinklers Award 2010 therefore it was considered by the AIRC during the Award Modernisation. There has been no evidence that MPA is aware of that would support the removal of the clause.
7. *Clause 16.6—Overtime meal breaks meal breaks has been moved from the overtime clause.*  
**“Parties are asked if this clause and clause 16.5—Overtime rest breaks would be better placed together in clause 21—Overtime.”**

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8. MPA believes that for a lay user of the award who is not experienced in the award interpretation would be easier and more accessible to read all overtime provisions in one location.
9. *Clause 18.8 Payment of wages states:*  
*(a) All wages, allowances and other monies must be paid in cash or by cheque, bank cheque, bank or similar transfer, or any combination of these.*  
**Parties are asked whether the payment of wages clause should specify that payment by electronic means is an acceptable payment of wages method.**
10. According to Cambridge dictionary bank transfer means the sending of money from one bank account to another, usually electronically.
11. According to Wikipedia Wire transfer, bank transfer or credit transfer is a method of electronic funds transfer from one person or entity to another.
12. MPA submits that bank or similar transfer means a payment by electronic means which already specified in clause 18.8(a).
13. *H.2 Peak sports apprenticeships are only available to persons contracted to play at a peak level for clubs or teams participating in competitions conducted by, or under the auspices of, Relevant National Sports Associations. Relevant National Sports Associations as at the date of this schedule are:*  
*(a) Australian Rugby League Commission (ARLC) and the National Rugby League (NRL); (b) Australian Football League (AFL); (c) Football Federation Australia (FFA); (d) Cricket Australia; and (e) Australian Rugby Union (ARU).*  
**"Parties are asked to confirm whether this list is up-to-date"**
14. MPA confirms to the best of its knowledge that the list is current and meets the intent of the original proposal to establish the category of such an apprenticeship.

Olya Valaire

Industrial Advocate  
Master Plumbers Association (NSW)