

**From:** Renee Gray [REDACTED]  
**Sent:** Wednesday, August 19, 2020 12:07 PM  
**To:** Chambers - Hatcher VP <Chambers.Hatcher.VP@fwc.gov.au>  
**Cc:** AMOD <AMOD@fwc.gov.au>  
**Subject:** RE: Professional Diving Industry Award (Determination) [SEC=UNCLASSIFIED]  
**Importance:** High

Hi Elise,

Thank you for the opportunity to send through a submission regards the Professional Diving Industry (Industrial) Award 2020.

The main points Indianic Group Pty Ltd would like to comment on are all based on the Inshore components of the award:

- **30. Overtime**

- **30.1 Definition of overtime**

- *For an inshore diver, overtime is any time worked:*

- *(a) in excess of 6 hours and 36 minutes per day; or*

- *(b) outside the spread of hours in clause [25.1\(a\)](#).*

- First and foremost this issue has previously been addressed, and resolved in Determination 13th June 2017 (see below).
  - Why has this been reverted to its previous version which is unmanageable, confusing and unsustainable?
  - I notice the MUA is the driving force behind these changes and query why 6 hours 36 minutes and not 38 hours as is for the full time divers and most awards across Australia?
- **Indianic Group would like to see casuals ordinary hours remain at 38 hours (7.6 hours per day).**

MA000108 PR593669

**FAIR WORK COMMISSION**

**DETERMINATION**

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

**4 yearly review of modern awards –Award stage –Group 1**  
(AM2014/84)

**PROFESSIONAL DIVING INDUSTRY (INDUSTRIAL) AWARD 2010**  
[MA000108]

Diving services

JUSTICE ROSS,PRESIDENT  
VICE PRESIDENT HATCHER  
SENIOR DEPUTY PRESIDENT HAMBERGER  
DEPUTY PRESIDENT BULL  
COMMISSIONER BISSETT

MELBOURNE,13 JUNE 2017

A. Further to the decision issued on 9 June 2017 1,the above award is varied as follows:

1. By deleting the words “6 hours and 36 minutes per day”appearing in clause 21.1(a) and inserting “38 hours per week”.

2. By deleting the words “the full 6 hours and 36 minutes in any one day”appearing in clause 21.1(d) and inserting “their ordinary hours”.

B. This determination comes into operation from 13 June 2017. In accordance with s.166(5) of the Fair Work

- Retaining the commercial divers we had prior to and in the current COVID-19 climate, has become increasingly difficult. It's noted much of this particular award seems to be based around the resources boom when multinational clients could afford to pay large amounts for inshore commercial diving teams. This is not representative of the current or foreseeable future for the commercial diving industry, therefore sections of the award are not sustainable.
- To have full time divers being paid ordinary rates for 38 hours (a common base of hours across Australia) while casuals on a higher rate are paid ordinary rates for 6 hours and 36 minutes (?), but must be paid an 8 hour minimum significantly impacts Commercial diving companies:
  - **Logistically (manning jobs)** - Management must identify the full time/casual divers and their skill sets to ensure the casual goes home first (after 8 hours) on a job which doesn't require all employees.
  - **Increases Cost of jobs** - we have to pay casuals a full 8 hour day even if they don't work, a full day. In fact we have to pay them Overtime at time & a half for

1 hour & 24 minutes for nothing! Where possible these costs need to be passed onto the client. For smaller commercial diving companies and their clients these costs are prohibitive (i.e. a moorings client is not going to take on the costs, and will simply look elsewhere to diving companies who don't pay the award, insurances and don't use the number of divers required for a team).

- **Winning tenders/jobs** - due to the costs of hiring a commercial dive team clients are increasingly looking to alternatives like remotely operated vehicles (ROV's). Therefore limiting the use/employment of commercial divers.
- **Payroll** - the large number of differing criteria (including rates of pay, minimum hours, overtime, allowances, higher duties etc...) makes for a very complex payroll. Even though we don't have a large payroll generally the time required to input the data is extensive.

- **27.2 Higher duties**

*(a) Where employees perform the duties of a higher paid classification for a day or part day they will be paid at the higher rate for that day and paid at the higher rate for an equivalent day in their off-duty period.*

*(b) For the purposes of clause 27.2(a), a higher paid classification means a classification where the total salary and allowances payable are greater than the total salary and allowances payable at the employee's current classification.*

- To pay a diver at a higher rate for the entire day because they have:
  - Driven a boat for 20 minutes; or
  - Supervised one dive for 30 minutes, significantly impacts the cost of jobs as we are then paying for two supervisor or coxswain/master rates for the day. This can increase the rate of a dive team substantially making diving companies less competitive and viable, impacting commercial diving companies' ability to successfully tender on jobs and therefore employ divers.

- **(d) Annual medical exam allowance**

*Employees who are subjected to greater than atmospheric pressure will be reimbursed the cost of an annual medical examination which will include, but not be limited to, the requirement set out in Appendix A of the Standards Association of Australia Underwater Air Breathing Operations Standard AS 2299. The provisions of clause 29.2(d) do not apply where the employer provides for the service.*

- Reimbursing or paying a full time diver for their annual dive medical (~\$300.00) is easily done. Casual divers who often work for the company once or twice in a year is another story.

- When we pay a casual diver the cost of their dive medical they cost the company ~\$300.00 before they walked in the door.
- How do we know who else they have worked for and who has previously paid for their dive medical?
- A daily allowance like the divers travel allowance would be a much more manageable means of payment.

There seems to be an offshore mind-set for the inshore section of the award, which is simply making it unviable for clients to utilise commercial dive teams, as they once did.

We sincerely appreciate the opportunity to make comment on the award and hope the information provided gives another point of view and highlights some of the difficulties faced by commercial diving companies when implementing the award. We look forward to positive changes in the future.

Kind Regards,

Renee Gray  
Human Resources Officer

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P/T: Available Mon & Thurs



'Specialising in: Mooring & Marine infrastructure / Installation – Inspection – Maintenance'



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