



Fair Work Commission: 4 yearly review of modern awards

SUBMISSIONS

TIMBER INDUSTRY AWARD 2010

AUSTRALIAN BUSINESS INDUSTRIAL

- and -

THE NSW BUSINESS CHAMBER LTD

19 JUNE 2020

BACKGROUND

1. These submissions in reply are made on behalf of Australian Business Industrial and the New South Wales Business Chamber Ltd (**ABI**). ABI is a registered organisation under the *Fair Work (Registered Organisations) Act 2009*. NSWBC is a recognised State registered association pursuant to Schedule 2 of the *Fair Work (Registered Organisation) Act 2009*.
2. These submissions respond to the Fair Work Commission (**Commission**) Statement (**Statement**) dated 10 June 2020. At paragraph 5 of the Statement, parties were given a further opportunity to file written submissions on the issue identified in paragraphs 439-440 of the Full Bench Decision of 27 April 2020.

ABI POSITION

3. ABI reconfirms our views as expressed at paragraph 76 of submissions dated 6 March 2020¹:

[439] ABI submitted that, based on the current wording of the Exposure Draft, casual employees are not entitled to public holiday loadings, unless they are in the General Timber Stream:

'78. This is because, clause 27.1(d) prescribes the public holiday penalty for casual employees. This clause is clearly limited to employees in the General Timber Stream.

79. Clause 27.1(c) also prescribes a public holiday penalty, but it expressly limited to weekly employees and so does not apply to casual employees, whether in the General Timber Stream or not.

80. Further to this, the Saturday and Sunday payments prescribed in clauses 27.1(a) and (b), are also expressly limited to weekly employees and do not apply to casual employees.

81. The Saturday and Sunday rates in the table at clause D.3.1 should be amended to reflect this.'

4. This view is consistent with the submission of the CFMEU in 2009 which sought an entitlement to the public holiday loading for General Timber Stream casual employees only². That submission was consistent with the position that there was no entitlement for public holiday loading for any casual employees at that date.
5. ABI agrees with the characterisation of its argument as expressed in the Statement but would like to clarify how the table at D.3.1 should be amended.
6. The table at D.3.1 of the Exposure Draft should be amended by:

¹ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201917-sub-abinswbc-060320.pdf>

² <https://www.fwc.gov.au/documents/documents/awardmod/var010110/am2009178.pdf>

- (a) Splitting the General Timber Stream and Wood and Timber Furniture Stream into separate sections of the table;
- (b) Continuing to provide a public holiday rate for the General Timber Stream (which is 275%);
- (c) Removing public holidays rates for the Wood and Timber Furniture Stream and the Pulp and Paper Stream;
- (d) Removing the Saturday and Sunday rates for all casual employees regardless of the stream.

Filed on behalf of Australian Business Industrial and the NSW Business Chamber Ltd

19 June 2020