



HOUSING INDUSTRY ASSOCIATION



Housing Australians



Submission to the
Fair Work Commission

4 Yearly Review of Modern Awards - Construction Awards Allowance - Height Work

9 November 2018



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1. INTRODUCTION

- 1.1.1 On Thursday 1 November 2018, a Conference was held to discuss the provisional view of the Fair Work Commission in relation to the quantum of sectorial allowances set out at paragraphs 369-372 of 4 yearly review of modern awards – Construction Awards [2018] FWCFB 6019 (Decision).
- 1.1.2 The provisional view proposes to remove a number of allowances from the Building and Construction General Onsite Award 2010 (Onsite Award) and replace them with an all-purpose industry allowance of 4% applicable to the residential building and construction sector and 5% for all other building and construction work.
- 1.1.3 During the Conference the CFMMEU and other union parties expressed opposition to the provisional view. In response the union parties provided a document outlining a further proposal in relation to the quantum of industry allowances.
- 1.1.4 The union proposal dealt with a range of matters including a proposal to amend the current multi-storey allowance to provide a height allowance of 3.2% of the standard rate for each 15m in height to apply to any work at heights other than on a multi-storey building (Height Work Allowance).
- 1.1.5 Employer parties were asked to provide feedback in response to the proposed Height Work Allowance by Friday 9 November 2018.
- 1.1.6 By way of email dated 6 November 2018 HIA requested a draft determination be provided by the union parties outlining the details of what was being sought.
- 1.1.7 Attachment A sets out that which was provided by the CFMMEU on 7 November 2018 in response to HIA's request.
- 1.1.8 Of note, there are significant differences between the Height Work Allowance and that outlined in Attachment A.
- 1.1.9 HIA provides this correspondence in compliance with those directions and in response the Height Work Allowance and Attachment A.

2. GENERAL COMMENTS

- 2.1.1 HIA opposes both the Height Work Allowance provided to the parties during the Conference and the amendment to clause 21.4 outlined at Attachment A.
- 2.1.2 Both approaches are unnecessary, inconsistent with the Decision and are at odds with the desire to simplify and rationalise the allowances in the Onsite Award.
- 2.1.3 HIA is of the view that the proposal outlined in the Decision to retain the multi-storey allowance but delete the towers allowances does require consequential amendments to the multi-storey allowance at subclause (d) and (g).



2.2 OPERATION OF THE EXISTING CLAUSE

2.2.1 By way of clause 21.4(d), the multi-story allowance applies to working at heights on buildings or structures which do not have regular storey levels. As such, HIA sees little need for the proposed Height Work Allowance or the amendment outlined at Attachment A.

2.2.2 The deletion of the towers allowance could be accommodated by the following amendment to clause 21.4(d):

Any buildings or structures which do not have regular storey levels ~~but which are not classed as towers (e.g. grandstands, aircraft hangars, large stores, etc.)~~ and which exceed 15 metres in height ~~may will be covered by this subclause, or by clause 22.3(a) by agreement between the employer and an employee.~~

2.2.3 This approach would be consistent with the Decision that the towers allowance and other height related allowances be removed. This approach also continues to provide an allowance for work on buildings or structures with irregular storey levels.

2.3 OPERATION OF THE AMENDMENT OUTLINED IN ATTACHMENT A

2.3.1 The proposed amendment set out at Attachment A would apply to:

- any work at heights on a building or structure that does not have regular storey levels and exceeds 15 metres; and
- any work performed on a swing scaffold, bosun's chair or suspended scaffold.

2.3.2 The proposal not only applies to work set out in the current towers allowance, but to a range of other situations that involve working at heights. The application of the allowance to swing scaffold, bosun's chair or suspended scaffold is at odds with the Decision which has proposed the deletion of these allowances¹.

2.3.3 Further, the application of the towers allowance is very clear. It applies in circumstances where an employee is working on a *chimney stack, spire, tower, radio or television mast or tower, air shaft (other than above ground in a multistorey building), cooling tower, water tower or silo, where the construction exceeds 15 metres in height*. The proposal at Attachment A (and the Height Work Allowance) is clearly intended to apply to scenarios well beyond those specifically contemplated by the current towers allowance.

2.3.4 This approach is at odds with the Decision and should be rejected.

¹ See paragraph 369 of the Decision



2.4 ABILITY TO REACH AGREEMENT

- 2.4.1 Currently clause 21.4(d) provides that an employer and employee may agree to be covered by the multi-storey allowance or the towers allowances when working on any buildings or structures which do not have regular storey levels but which are not classed as towers (e.g. grandstands, aircraft hangars, large stores, etc.) and which exceed 15 metres in height.
- 2.4.2 The Height Work Allowance was unclear as to whether the proposed amendment to clause 21.4(d) would result in the deletion of the ability to reach agreement on this matter.
- 2.4.3 Attachment A retains the ability to reach agreement.
- 2.4.4 While HIA maintains its overall objection to the proposed Height Work Allowance and that outlined in Attachment A if the Commission is minded to adopt either of the unions proposals HIA submit that the ability to reach agreement on the amount payable in certain situations be retained.

2.5 SERVICE CORE ALLOWANCE

- 2.5.1 Clause 21.4(g) provides a specific allowance for employees employed on a service core. This allowance references clause 22.3 (a) - towers allowance.
- 2.5.2 The deletion of the towers allowance requires that clause 21.4(g)(i) be amended. HIA proposes the following which aligns with the current entitlement under the Onsite Award:

All employees employed on a service core at more than 15 metres above the highest point of the main structure must be paid the multistorey rate appropriate for the main structure plus an additional 3.2% of the hourly standard rate per hour with 3.2% of the hourly standard rate per hour additional for work above each additional 15 metres ~~the allowance prescribed in clause 22.3(a)~~, calculated from the highest point reached by the main structure to the highest point reached by the service core in any one day period. (i.e. For this purpose, the highest point of the main structure will be regarded as though it were the ground.) ~~in calculating the appropriate Towers allowance prescribed in clause 22.3(a)~~.



ATTACHMENT A

CFMMEU PROPOSED CHANGES TO THE MULTISTOREY ALLOWANCE

21.4 Multistorey allowance

(a) A multistorey allowance must be paid to all employees on-site whilst engaged in construction or renovation of a multistorey building to compensate for the disabilities experienced in, and which are peculiar to construction or renovation of a multistorey building.

(b) Provided that for the purposes of this clause **renovation work** is work performed on existing multistorey buildings and such work involves structural alterations which extend to more than two storey levels in a building, and at least part of the work to be performed is above the fourth floor storey level in accordance with the scale of payments appropriate for the highest floor level affected by such work.

(c) In this clause:

multistorey building means a building which will, when complete, consist of five or more storey levels

complete means the building is fully functional and all work which was part of the principal contract is complete

storey level means structurally completed floor, walls, pillars or columns, and ceiling (not being false ceilings) of a building and will include basement levels and mezzanine or similar levels (but excluding **half floors** such as toilet blocks or store rooms located between floors)

floor level means that stage of construction which in the completed building would constitute the walking surface of the particular floor level referred to in the table of payments.

~~(d) Any buildings or structures which do not have regular storey levels but which are not classed as towers (e.g. grandstands, aircraft hangars, large stores, etc.) and which exceed 15 metres in height may be covered by this subclause, or by clause [22.3\(a\)](#) by agreement between the employer and an employee.~~

Any buildings or structures which do not have regular storey levels which exceed 15 metres in height, and any work performed on a swing scaffold, bosun's chair or suspended scaffold will be covered by this clause. An employer must reach agreement with an employee to either:

(i) **pay the appropriate allowance in accordance with clause 21.4(f);**
or

(ii) **pay an allowance of 3.2% of the hourly standard rate per hour for all work above 15 metres, with an additional 3.2% of the hourly standard rate per hour for work above each additional 15 metres. For example, an employee working at a height of 31 metres is paid an allowance of 6.4% of the hourly standard rate per hour.**

(e) **Plant room:** a plant room situated on the top of a building will constitute a further storey level if the plant room occupies 25% of the total roof or an area of 100 square metres whichever is the lesser.



(f) Rates

(i) Except as provided for in clause [21.4\(g\)](#), an allowance in accordance with the following table must be paid to all employees on the building site. The higher allowances presented in respect of work on the 16th and subsequent floors will be paid to all employees when one of the following components of the building—structural steel, reinforcing steel, boxing or walls—rises above the floor level first designated in the allowance scale:

Storeys	Allowance per hour
From the commencement of building to 15th floor level	2.6% of the hourly standard rate
From the 16th floor level to 30th floor level	3.1% of the hourly standard rate
From the 31st floor level to 45th floor level	4.8% of the hourly standard rate
From the 46th floor level to 60th floor level	6.2% of the hourly standard rate
From the 61st floor level onward	7.6% of the hourly standard rate

(ii) The allowances payable at the highest point of the building will continue until completion of the building.

(g) Service cores

- (i) All employees employed on a service core at more than 15 metres above the highest point of the main structure must be paid the multistorey rate appropriate for the main structure plus the allowance prescribed in clause [22.3\(a\)](#) 21.4(d)(ii), calculated from the highest point reached by the main structure to the highest point reached by the service core in any one day period. (i.e. For this purpose, the highest point of the main structure will be regarded as though it were the ground in calculating the appropriate Towers allowance prescribed in clause [22.3\(a\)](#) 21.4(d)(ii)).
- (ii) Employees employed on a service core no higher than 15 metres above the main structure must be paid in accordance with the multistorey allowance prescribed herein.
- (iii) Provided that any section of a service core exceeding 15 metres above the highest point of the main structure will be disregarded for the purpose of calculating the multistorey allowance application to the main structure.

