

Australian Industry Group

4 YEARLY REVIEW OF MODERN AWARDS

Submission

Fast Food Industry Award 2010
(AM2017/49)

30 November 2017

Ai
GROUP

4 YEARLY REVIEW OF MODERN AWARDS –

FAST FOOD INDUSTRY AWARD 2010

(AM2017/49)

Ai GROUP SUBSTANTIVE CLAIM

1. The Australian Industry Group (**Ai Group**) refers to the Directions before by President Justice Ross on 8 November 2017.
2. This submission identifies an additional substantive claim and variation that will be pursued by Ai Group in relation to the *Fast Food Industry Award 2010* (**Award**) (Group 4F).
3. A draft variation determination for the Fast Food Industry Award 2010 (**Award**) is filed with this submission.
4. Ai Group confirms that it will pursue the variation to the Award to remove clause 12 of the Award and introduce a new flexible part-time clause in the Award.
5. Ai Group will provide evidence in support of this claim, and anticipates calling 8 to 10 witnesses.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Fast Food Award 2010 (MA000003) (AM2014/267)

JUSTICE ROSS, PRESIDENT

SYDNEY, XX

XXXX 2016

4 yearly review of modern awards – Fast Food Award 2010 (MA000003).

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Fast Food Industry Award 2010*² be varied by:

1. Deleting clause 12.
2. Inserting in clause 12:

12. Part-time employment

12.1 A part time employee is an employee who:

- a) Works at least an average of 8 but less than 38 hours per week; and
- b) Receives on a pro-rata basis, equivalent pay and conditions to those of full-time employees who do the same kind of work.

12.2 For the purpose of the averaging in clause 12.1(a), **clause 25.4 – Hours of Work** will apply to part-time employees.

12.3 At the time of engagement, the employer and the part-time employee will agree in writing upon:

- a) The number of minimum hours of work which are guaranteed to be provided and paid to the employee each week, or where the employer operates a roster cycle of greater than one week, the number of hours of work which are guaranteed to be provided and paid to the employee over the roster cycle (**the guaranteed minimum hours**); and
- b) The days of the week, and the periods of those days when the employee will be available to work the guaranteed minimum hours (**the employee's availability**).

12.4 The guaranteed minimum hours shall not be less than an average of 8 hours per week.

12.5 Any change to the guaranteed minimum hours, or the employee's availability, may only occur with the written consent of the other party.

12.6 The employer may roster, and the employee may work, the employee's guaranteed minimum hours and any additional hours in accordance with **clause 25 – Hours of Work**, provided that:

- a) The employee may not be rostered for work outside of the employee's availability; and
- b) The employee must not be rostered to work less than 3 hours for each engagement.

12.7 An employee who does not meet the definition of a part-time employee and who is not a full-time employee will be paid as a casual employee with **clause 13 – Casual Employment**.

12.8 A part-time employee employed under the provisions of this clause must be paid for ordinary hours worked at the rate of 1/38th of the minimum weekly rate prescribed for the class of work performed.

B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000003.