



# Summary of Decision

23 May 2016

## 4 yearly review of modern awards — Annual Leave

AM2014/47

[2016] FWCFB 3177

### *Background*

1. This Full Bench decision deals with the variation of a number of modern awards in relation to various aspects of paid annual leave. These issues have been the subject of two previous Full Bench decisions – the [June 2015 decision](#)<sup>1</sup> and the [September 2015 decision](#)<sup>2</sup>. In the *June* and *September 2015 decisions* the Fair Work Commission (the Commission) determined model terms in respect of:
  - (i) cashing out of annual leave
  - (ii) electronic funds transfer and paid annual leave;
  - (iii) granting annual leave in advance; and
  - (iv) excessive annual leave.
2. This decision deals with the variation of particular modern awards to insert the model terms. The Full Bench considered whether particular modern awards achieve the modern awards objective in relation to the manner in which they deal (or do not deal) with certain matters relating to paid annual leave.
3. As the September 2015 model terms have not yet been incorporated into modern awards, the Full Bench reviewed and redrafted the model terms to ensure that they are expressed in plain language. The model terms were restructured to make the clauses more straightforward for employers and employees to understand and use. The language is simpler and clearer and uses commonly understood words rather than legal jargon. Importantly, the substantive legal effect of the model terms has not changed. The plain language re-drafts of the model terms are set out at Attachment 1.
4. The Full Bench acknowledged that the introduction of the model terms into modern awards is a significant change, and the Commission proposes to publish an information note on the annual leave model terms when the variation determinations come into effect.

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<sup>1</sup> [2015] FWCFB 3406

<sup>2</sup> [2015] FWCFB 5771

The information note will explain how the model terms operate and how they relate to the other provisions in a modern award.

### ***Cashing out of annual leave***

5. The Full Bench was satisfied that the variation of 115 modern awards to incorporate the revised cashing out model term was necessary to ensure that each of these modern awards provides a fair and relevant safety net, taking into account the s.134 considerations (insofar as they are relevant), and that such variations are consistent with the objects of the *Fair Work Act 2009* (Cth) (FW Act). The 115 modern awards to be varied are identified in Attachment 2.
6. The Commission will give further consideration as to whether six Maritime Awards should be varied to insert the revised model cashing out term for the reasons given at paragraphs [231]–[238] of its decision (also see paragraph 11 of this Summary). The Commission also proposes to give further consideration to the form of the cashing out term to be inserted into the *Security Services Industry Award 2010*. These matters will be listed for further hearing on 1 July 2016.

### ***EFT and paid annual leave***

7. The Full Bench determined that the 51 modern awards which currently require the employer to pay an employee for annual leave prior to the employee taking the leave will be varied to insert the revised EFT and paid annual leave model term, for the reasons given in the *June 2015 decision*.<sup>3</sup> The effect of these variations is that when employees are paid by electronic funds transfer they may be paid in accordance with their usual pay cycle while on paid annual leave. The variations will not change the status quo (i.e. payment for leave being made in advance of taking the leave) in respect of employees who are paid by cash or cheque. The 51 modern awards to be varied are identified in Attachment 2.

### ***Leave in advance***

8. The revised leave in advance model term will be inserted into 116 modern awards. The Full Bench decided that the variation of these 116 modern awards was necessary to ensure that each of these modern awards provides a fair and relevant minimum safety net, taking into account the s.134 considerations (insofar as they are relevant). Further, the Full Bench found that such variations are consistent with the objects of the FW Act. The 116 modern awards to be varied identified in Attachment 2.

### ***Excessive annual leave***

9. The Full Bench determined that 83 modern awards will be varied to insert the revised excessive annual leave term. The transitional subclause proposed by Ai Group will be inserted into each variation determination to ensure that an employee's right to take 'excessive' annual leave will not commence until 12 months after the commencement of the balance of the clause, in order to address situations where a significant proportion of an employer's workforce currently have excessive leave accruals. The Full Bench was

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<sup>3</sup> see [\[2015\] FWCFB 3406](#) at [436]–[457]).

satisfied that the variation of these 83 modern awards was necessary to ensure that these modern awards provide a fair and relevant safety net and that they meet the modern awards objective. The modern awards to be varied are identified in Attachment 2. The Full Bench relied on the reasons set out at paragraphs [78]–[120] of its decision and on the reasons given in the *June 2015 decision* (see paragraphs [87]–[219]) and in the *September 2015 decision* (see paragraphs [42]–[178]).

10. Further consideration will be given to whether the remaining 39 modern awards should be varied to insert the revised excessive annual leave term, as follows:

- (i) The *Textile, Clothing, Footwear and Associated Industries Award 2010* will be relisted for further consideration later this year, for the reasons set out at paragraphs [93]–[95] of this decision.
- (ii) 20 modern awards which contain provisions requiring paid annual leave to be taken within a specified time after accrual will be the subject of a conference before Commissioner Hampton in the coming weeks (see paragraphs [123]–[124]). These awards are:
  - *Aquaculture Industry Award 2010* – clause 23.4;
  - *Asphalt Industry Award 2010* – clause 25.5;
  - *Broadcasting and Recorded Entertainment Award 2010* – clause 23.6;
  - *Cement and Lime Award 2010* – clause 24.5;
  - *Gardening and Landscaping Services Award 2010* – clause 24.4;
  - *Gas Industry Award 2010* – clause 25.4;
  - *Horse and Greyhound Training Award 2010* – clause 23.4;
  - *Premixed Concrete Award 2010* – clause 24.5;
  - *Quarrying Award 2010* – clause 29.5;
  - *Racing Clubs Events Award 2010* – clause 30.4;
  - *Racing Industry Ground Maintenance Award 2010* – clause 24.3;
  - *Silviculture Award 2010* – clause 29.4;
  - *Sporting Organisations Award 2010* – clause 25.4.
  - *Ambulance and Patient Transport Industry Award 2010* – clause 30.8;
  - *Architects Award 2010* – clause 20.2;
  - *Black Coal Mining Industry Award 2010* – clause 25.4;
  - *Mobile Crane Hiring Award 2010* – clause 25.2(a);
  - *Nursery Award 2010* – clause 27.8(a);
  - *Nurses Award 2010* – clause 31.2;
  - *Security Services Industry Award 2010* – clause 24.3.
- (iii) The *Air Pilots Award 2010* and the *Aircraft Cabin Crew Award 2010* will be considered in the second half of this year in order to give Ai Group and other interested parties an opportunity to make further relevant inquiries in order to

assess whether the insertion of the model term would be problematic (see paragraphs [125]–[126] of this decision).

- (iv) For the reasons given at paragraphs [147]–[164] of this decision, the Full Bench reached the provisional view that the excessive leave terms in the Agriculture Awards do not provide a fair and relevant safety net of terms and conditions of employment and therefore the existing terms do not satisfy the modern awards objective. It also reached the provisional view that these existing excessive leave terms do not meet the requirements of s.93(3) of the FW Act. The Agriculture Awards are:

- *Horticulture Award 2010*
- *Pastoral Award 2010*
- *Wine Industry Award 2010*

Interested parties have until 5pm (AEST) on 1 June 2016 to notify the Commission (at [amod@fwc.gov.au](mailto:amod@fwc.gov.au)) if they wish to contest the Full Bench's provisional views in respect of this issue. If any expressions of interest are received the Commission will issue directions for the filing of further submissions and evidence. If no expressions of interest are received by the specified date the Commission will vary the Agriculture Awards to insert the revised excessive leave model term.

- (v) Various employer organisations opposed the insertion of the excessive leave model term into the Hospitality Awards. The Hospitality Awards are:

- *Hospitality Industry (General) Award 2010*
- *Registered and Licensed Clubs Award 2010*
- *Restaurant Industry Award 2010*

The Full Bench reached the provisional view that the excessive leave terms in these awards do not provide a fair and relevant minimum safety net and therefore do not satisfy the modern awards objective. The Full Bench make two additional observations:

- it was contended that the requirement in the model term that an employee be given 8 weeks' notice of employer directed leave would create practical difficulties given the rostering arrangements in the hospitality industry, however no evidence was advanced on this point; and
- the Full Bench expressed the view that where the existing excessive leave terms in the Hospitality Awards provide that 'An employer may require an employee to take annual leave by giving at least four weeks' notice ... as part of a close down of its operations', employers should retain the capacity to direct employees to take annual leave as part of a close down of their operations.

Interested parties will have until 5.00 pm (AEST) 1 June 2016 to notify the Commission (at [amod@fwc.gov.au](mailto:amod@fwc.gov.au)) if they wish to contest the Full Bench's provisional views in respect of this issue. If expressions of interest are received the Commission will issue directions for the filing of further submissions and evidence. If no expressions of interest are received by 5pm on 1 June 2016 the

Full Bench will vary the Hospitality Awards to insert the revised excessive leave model term.

- (vi) In relation to the *Medical Practitioners Award 2010*, the Full Bench expressed the provisional view that the draft determination be varied in response to submissions by Australian Salaried Medical Officers Federation (ASMOF). The Full Bench described ASMOF's claim as consisting of two elements and determined that the second element was more substantive and ought to be referred back to the Award stage of the review of this award. Interested parties will have until 5pm (AEST) on 1 June 2016 to notify the Commission (at [amod@fwc.gov.au](mailto:amod@fwc.gov.au)) if they wish to contest the Full Bench's provisional views in respect of this issue. If expressions of interest are received the Commission will issue directions for the filing of further submissions and evidence. If no expressions of interest are received by 5pm on 1 June 2016 the *Medical Practitioners Award 2010* will be varied to insert the revised excessive leave model term.
- (vii) Australian Mines and Metals Association (AMMA) opposed the insertion of the model terms dealing with excessive leave into 4 Resource Sector Awards:
- *Hydrocarbons Industry (Upstream) Award 2010*
  - *Mining Industry Award 2010*
  - *Oil Refining and Manufacturing Award 2010*
  - *Salt Industry Award 2010*

The Full Bench reached the provisional view that the excessive leave terms in the Resource Sector Awards do not provide a fair and relevant minimum safety net of terms and conditions of employment and therefore the terms do not satisfy the modern awards objective. The Full Bench also reached the provisional view that these existing excessive leave terms do not meet the requirements of s.93(3) of the FW Act.

Interested parties will have until 5pm (AEST) on 1 June 2016 to notify the Commission (at [amod@fwc.gov.au](mailto:amod@fwc.gov.au)) if they wish to contest the Commission's provisional views in respect of this issue. If any expressions of interest are received the Commission will issue directions for the filing of further submissions on evidence. If no expressions of interest are received by 5pm on 1 June 2016 the Full Bench will vary the Resource Sector Awards to insert the revised excessive leave model term. The Full Bench acknowledged that the model term will need to be tailored to the circumstances pertaining to these awards. In particular, the definition of 'excessive leave' will need to be adjusted where the quantum of annual leave accrued by employees covered by these awards is greater than that provided in the NES.

### ***The Maritime Awards***

11. AMMA and the Maritime Industry Association Ltd (MIAL) opposed the insertion of the model terms relating to excessive leave, annual leave in advance and cashing out of annual leave into the Maritime Awards. The Maritime Awards are:

- *Dredging Industry Award 2010*
- *Marine Towage Award 2010*

- *Maritime Offshore Oil and Gas Award 2010*
- *Ports, Harbours and Enclosed Water Vessels Award 2010*
- *Professional Diving Industry (Industrial) Award 2010*
- *Seagoing Industry Award 2010*

In a Statement issued in November<sup>4</sup>, the Full Bench expressed the provisional view that draft determinations inserting annual leave provisions dealing with excessive leave, leave in advance and cashing out would not be issued in relation to the Maritime Awards. Interested persons objecting to that provisional view were invited to file a written submission. The Full Bench confirmed its position in a further Statement issued in December 2015. For the reasons set out at paragraphs [235]–[238] of its decision, the Full Bench decided to give further consideration to its previously expressed view and the Maritime Awards will be listed for a further hearing on 1 July 2016.

### ***Draft determinations***

12. Draft variation determinations will be published in respect of all modern awards that are to be varied and interested parties will have 7 days to comment. The opportunity to comment only relates to the plain language revisions to the model terms and the associated template agreements. It is not an opportunity to re-agitate the merits of whether particular modern awards should be varied to incorporate a model term.

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- ***This statement is not a substitute for the reasons of the Fair Work Commission nor is it to be used in any later consideration of the Commission's reasons.***

- ENDS -

### **For further information please contact:**

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<sup>4</sup> [\[2015\] FWCFB 8030](#)

## **Attachment 1—Plain language re-drafts of the annual leave model terms**

### **1.1 Annual leave in advance**

- (a)** An employer and employee may agree in writing to the employee taking a period of paid annual leave before the employee has accrued an entitlement to the leave.
- (b)** An agreement must:
  - (i)** state the amount of leave to be taken in advance and when it is to be taken; and
  - (ii)** be signed by the employer and employee.
- (c)** The employer must keep a copy of any agreement under clause 1.1 as an employee record.
- (d)** If, on the termination of the employee's employment, the employee has not accrued an entitlement to a period of paid annual leave already taken in accordance with an agreement under clause 1.1, the employer may deduct from any money due to the employee on termination an amount equal to the amount already paid to the employee in respect of that annual leave taken.

### **1.2 Cashing out of annual leave**

- (a)** Paid annual leave must not be cashed out except in accordance with an agreement under clause 1.2.
- (b)** Each cashing out of a particular amount of paid annual leave must be the subject of a separate agreement under clause 1.2.
- (c)** An employer and an employee may agree in writing to the cashing out of a particular amount of accrued paid annual leave by the employee.
- (d)** An agreement under clause 1.2 must state:
  - (i)** the amount of leave to be cashed out and the payment to be made to the employee for it; and
  - (ii)** when the payment is to be made.
- (e)** An agreement under clause 1.2 must be signed by the employer and employee and, if the employee is under 18 years of age, by the employee's parent or guardian.
- (f)** The payment must not be less than the amount that would have been payable had the employee taken the leave at the time the payment is made.
- (g)** An agreement must not result in the employee's remaining accrued entitlement to paid annual leave being less than 4 weeks.
- (h)** The maximum amount of accrued paid annual leave that may be cashed out in any period of 12 months is 2 weeks.
- (i)** The employer must keep a copy of any agreement under clause 1.2 as an employee record.

Note 1: Under section 344 of the Act, an employer must not exert undue influence or undue pressure on an employee to make, or not make, an agreement under clause 1.2.



Note 2: Under section 345(1) of the Act, a person must not knowingly or recklessly make a false or misleading representation about the workplace rights of another person under clause 1.2.

### 1.3 Excessive leave accruals: general provision

NOTE: Clauses 1.3 to 1.5 contain provisions, additional to the National Employment Standards, about the taking of paid annual leave as a way of dealing with the accrual of excessive paid annual leave. See Part 2.2, Division 6 of the Fair Work Act.

- (a) An employee has an **excessive leave accrual** if the employee has accrued more than 8 weeks' paid annual leave (or 10 weeks' paid annual leave for a shiftworker, as defined by clause 1.x).
- (b) If an employee has an excessive leave accrual, the employer or the employee may seek to confer with the other and genuinely try to reach agreement on how to reduce or eliminate the excessive leave accrual.
- (c) Clause 1.4 sets out how an employer may direct an employee who has an excessive leave accrual to take paid annual leave.
- (d) Clause 1.5 sets out how an employee who has an excessive leave accrual may require an employer to grant paid annual leave requested by the employee.

### 1.4 Excessive leave accruals: direction by employer that leave be taken

- (a) If an employer has genuinely tried to reach agreement with an employee under clause 1.3(b) but agreement is not reached (including because the employee refuses to confer), the employer may direct the employee in writing to take one or more periods of paid annual leave.
- (b) However, a direction by the employer under paragraph (a):
  - (i) is of no effect if it would result at any time in the employee's remaining accrued entitlement to paid annual leave being less than 6 weeks when any other paid leave arrangements (whether made under clause 1.3, 1.4 or 1.5 or otherwise agreed by the employer and employee) are taken into account; and
  - (ii) must not require the employee to take any period of paid annual leave of less than one week; and
  - (iii) must not require the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the direction is given; and
  - (iv) must not be inconsistent with any leave arrangement agreed by the employer and employee.
- (c) The employee must take paid annual leave in accordance with a direction under paragraph (a) that is in effect.



- (d) An employee to whom a direction has been given under paragraph (a) may request to take a period of paid annual leave as if the direction had not been given.

NOTE 1: Paid annual leave arising from a request mentioned in paragraph (d) may result in the direction ceasing to have effect. See clause 1.4(b)(i).

NOTE 2: Under section 88(2) of the Fair Work Act, the employer must not unreasonably refuse to agree to a request by the employee to take paid annual leave.

### **1.5 Excessive leave accruals: request by employee for leave**

- (a) If an employee has genuinely tried to reach agreement with an employer under clause 1.3(b) but agreement is not reached (including because the employer refuses to confer), the employee may give a written notice to the employer requesting to take one or more periods of paid annual leave.
- (b) However, an employee may only give a notice to the employer under paragraph (a) if:
  - (i) the employee has had an excessive leave accrual for more than 6 months at the time of giving the notice; and
  - (ii) the employee has not been given a direction under clause 1.4(a) that, when any other paid leave arrangements (whether made under clause 1.3, 1.4 or 1.5 or otherwise agreed by the employer and employee) are taken into account, would eliminate the employee's excessive leave accrual.
- (c) A notice given by an employee under paragraph (a) must not:
  - (i) if granted, result in the employee's remaining accrued entitlement to paid annual leave being at any time less than 6 weeks when any other paid leave arrangements (whether made under clause 1.3, 1.4 or 1.5 or otherwise agreed by the employer and employee) are taken into account; or
  - (ii) provide for the employee to take any period of paid annual leave of less than one week; or
  - (iii) provide for the employee to take a period of paid annual leave beginning less than 8 weeks, or more than 12 months, after the notice is given; or
  - (iv) be inconsistent with any leave arrangement agreed by the employer and employee.
- (d) An employee is not entitled to request by a notice under paragraph (a) more than 4 weeks' paid annual leave (or 5 weeks' paid annual leave for a shiftworker, as defined by clause 1.x) in any period of 12 months.
- (e) The employer must grant paid annual leave requested by a notice under paragraph (a).

## Attachment 2—Awards into which various provisions are to be inserted

Code	Award title	Cashing out	Leave in advance	EFT	Excessive leave
MA000115	<i>Aboriginal Community Controlled Health Services Award 2010</i>	✓	✓		✓
MA000018	<i>Aged Care Award 2010</i>	✓	✓		✓
MA000046	<i>Air Pilots Award 2010</i>	✓	✓	✓	Def
MA000047	<i>Aircraft Cabin Crew Award 2010</i>	✓	✓	✓	Def
MA000048	<i>Airline Operations—Ground Staff Award 2010</i>	✓	✓	✓	✓
MA000049	<i>Airport Employees Award 2010</i>	✓	✓	✓	✓
MA000092	<i>Alpine Resorts Award 2010</i>	✓	✓		✓
MA000060	<i>Aluminium Industry Award 2010</i>	✓	✓		✓
MA000098	<i>Ambulance and Patient Transport Industry Award 2010</i>	✓	✓	✓	Conf
MA000080	<i>Amusement, Events and Recreation Award 2010</i>	✓	✓		✓
MA000118	<i>Animal Care and Veterinary Services Award 2010</i>	✓	✓		✓
MA000114	<i>Aquaculture Industry Award 2010</i>	✓	✓	✓	Conf
MA000079	<i>Architects Award 2010</i>	✓	✓		Conf
MA000054	<i>Asphalt Industry Award 2010</i>	✓	✓	✓	Conf
MA000019	<i>Banking, Finance and Insurance Award 2010</i>	✓	✓		✓
MA000001	<i>Black Coal Mining Industry Award 2010</i>	✓	✓	✓	Conf
MA000078	<i>Book Industry Award 2010</i>	✓	✓		✓
MA000091	<i>Broadcasting and Recorded Entertainment Award 2010</i>	✓	✓	✓	Conf
MA000020	<i>Building and Construction General On-site Award 2010</i>	✓	✓	✓	✓
MA000021	<i>Business Equipment Award 2010</i>	✓	✓		✓
MA000095	<i>Car Parking Award 2010</i>	✓	✓	✓	✓
MA000055	<i>Cement and Lime Award 2010</i>	✓	✓	✓	Conf
MA000070	<i>Cemetery Industry Award 2010</i>	✓	✓		✓
MA000120	<i>Children's Services Award 2010</i>	✓	✓		✓
MA000022	<i>Cleaning Services Award 2010</i>	✓	✓		✓
MA000002	<i>Clerks—Private Sector Award 2010</i>	✓	✓		✓
MA000045	<i>Coal Export Terminals Award 2010</i>	✓	✓	✓	✓
MA000083	<i>Commercial Sales Award 2010</i>	✓	✓		✓
MA000056	<i>Concrete Products Award 2010</i>	✓	✓	✓	✓
MA000023	<i>Contract Call Centre Award 2010</i>	✓	✓	✓	✓
MA000110	<i>Corrections and Detention (Private Sector) Award 2010</i>	✓	✓		✓
MA000024	<i>Cotton Ginning Award 2010</i>	✓	✓		✓
MA000085	<i>Dredging Industry Award 2010</i>	FH	FH		FH
MA000096	<i>Dry Cleaning and Laundry Industry Award 2010</i>	✓	✓		✓
MA000075	<i>Educational Services (Post-Secondary Education) Award 2010</i>	✓	✓		✓
MA000076	<i>Educational Services (Schools) General Staff Award 2010</i>	✓	✓		✓
MA000077	<i>Educational Services (Teachers) Award 2010</i>	FB	FB		FB
MA000088	<i>Electrical Power Industry Award 2010</i>	✓	✓		✓
MA000025	<i>Electrical, Electronic and Communications Contracting Award 2010</i>	✓	✓	✓	✓
MA000003	<i>Fast Food Industry Award 2010</i>	✓	✓		✓
MA000111	<i>Fire Fighting Industry Award 2010</i>	✓	✓		✓
MA000094	<i>Fitness Industry Award 2010</i>	✓	✓		✓

Code	Award title	Cashing out	Leave in advance	EFT	Excessive leave
MA000073	<i>Food, Beverage and Tobacco Manufacturing Award 2010</i>	✓	✓	✓	✓
MA000105	<i>Funeral Industry Award 2010</i>	✓	✓		✓
MA000101	<i>Gardening and Landscaping Services Award 2010</i>	✓	✓	✓	Conf
MA000061	<i>Gas Industry Award 2010</i>	✓	✓		Conf
MA000004	<i>General Retail Industry Award 2010</i>	✓	✓		✓
MA000026	<i>Graphic Arts, Printing and Publishing Award 2010</i>	✓	✓	✓	✓
MA000005	<i>Hair and Beauty Industry Award 2010</i>	✓	✓		✓
MA000027	<i>Health Professionals and Support Services Award 2010</i>	✓	✓		✓
MA000006	<i>Higher Education Industry—Academic Staff—Award 2010</i>	FB	FB		FB
MA000007	<i>Higher Education Industry—General Staff—Award 2010</i>	FB	FB		FB
MA000008	<i>Horse and Greyhound Training Award 2010</i>	✓	✓	✓	Conf
MA000028	<i>Horticulture Award 2010</i>	✓	✓	✓	PV
MA000009	<i>Hospitality Industry (General) Award 2010</i>	✓	✓		PV
MA000064	<i>Hydrocarbons Field Geologists Award 2010</i>	✓	✓		✓
MA000062	<i>Hydrocarbons Industry (Upstream) Award 2010</i>	✓	✓	✓	PV
MA000029	<i>Joinery and Building Trades Award 2010</i>	✓	✓	✓	✓
MA000067	<i>Journalists Published Media Award 2010</i>	✓	✓		✓
MA000099	<i>Labour Market Assistance Industry Award 2010</i>	✓	✓		✓
MA000116	<i>Legal Services Award 2010</i>	✓	✓	✓	✓
MA000081	<i>Live Performance Award 2010</i>	✓	✓	✓	✓
MA000112	<i>Local Government Industry Award 2010</i>	✓	✓		✓
MA000117	<i>Mannequins and Models Award 2010</i>	✓	✓		✓
MA000010	<i>Manufacturing and Associated Industries and Occupations Award 2010</i>	✓	✓	✓	✓
MA000093	<i>Marine Tourism and Charter Vessels Award 2010</i>	✓	✓		✓
MA000050	<i>Marine Towage Award 2010</i>	FH	FH		FH
MA000086	<i>Maritime Offshore Oil and Gas Award 2010</i>	FH	FH		FH
MA000030	<i>Market and Social Research Award 2010</i>	✓	✓	✓	✓
MA000059	<i>Meat Industry Award 2010</i>	✓	✓	✓	✓
MA000031	<i>Medical Practitioners Award 2010</i>	✓	✓		✓
MA000011	<i>Mining Industry Award 2010</i>	✓	✓	✓	PV
MA000104	<i>Miscellaneous Award 2010</i>	✓	✓		✓
MA000032	<i>Mobile Crane Hiring Award 2010</i>	✓	✓		Conf
MA000033	<i>Nursery Award 2010</i>	✓	✓	✓	Conf
MA000034	<i>Nurses Award 2010</i>	✓	✓	✓	Conf
MA000072	<i>Oil Refining and Manufacturing Award 2010</i>	✓	✓	✓	PV
MA000063	<i>Passenger Vehicle Transportation Award 2010</i>	✓	✓		✓
MA000035	<i>Pastoral Award 2010</i>	✓	✓	✓	PV
MA000097	<i>Pest Control Industry Award 2010</i>	✓	✓	✓	✓
MA000069	<i>Pharmaceutical Industry Award 2010</i>	✓	✓	✓	✓
MA000012	<i>Pharmacy Industry Award 2010</i>	✓	✓		✓
MA000036	<i>Plumbing and Fire Sprinklers Award 2010</i>	✓	✓		✓
MA000051	<i>Port Authorities Award 2010</i>	✓	✓		✓
MA000052	<i>Ports, Harbours and Enclosed Water Vessels Award 2010</i>	FH	FH		FH
MA000074	<i>Poultry Processing Award 2010</i>	✓	✓		✓
MA000057	<i>Premixed Concrete Award 2010</i>	✓	✓	✓	Conf

Code	Award title	Cashing out	Leave in advance	EFT	Excessive leave
MA000108	<i>Professional Diving Industry (Industrial) Award 2010</i>	FH	FH	✓	FH
MA000109	<i>Professional Diving Industry (Recreational) Award 2010</i>	✓	✓		✓
MA000065	<i>Professional Employees Award 2010</i>	✓	✓		✓
MA000037	<i>Quarrying Award 2010</i>	✓	✓	✓	Conf
MA000013	<i>Racing Clubs Events Award 2010</i>	✓	✓	✓	Conf
MA000014	<i>Racing Industry Ground Maintenance Award 2010</i>	✓	✓	✓	Conf
MA000015	<i>Rail Industry Award 2010</i>	✓	✓		✓
MA000106	<i>Real Estate Industry Award 2010</i>	✓	✓	✓	✓
MA000058	<i>Registered and Licensed Clubs Award 2010</i>	✓	✓		PV
MA000119	<i>Restaurant Industry Award 2010</i>	✓	✓		PV
MA000039	<i>Road Transport (Long Distance Operations) Award 2010</i>	✓	✓	✓	✓
MA000038	<i>Road Transport and Distribution Award 2010</i>	✓	✓		✓
MA000107	<i>Salt Industry Award 2010</i>	✓	✓	✓	PV
MA000068	<i>Seafood Processing Award 2010</i>	✓	✓	✓	✓
MA000122	<i>Seagoing Industry Award 2010</i>	FH	FH		FH
MA000016	<i>Security Services Industry Award 2010</i>	FH	✓	✓	Conf
MA000040	<i>Silviculture Award 2010</i>	✓	✓	✓	Conf
MA000100	<i>Social, Community, Home Care and Disability Services Industry Award 2010</i>	✓	✓		✓
MA000082	<i>Sporting Organisations Award 2010</i>	✓	✓		Conf
MA000121	<i>State Government Agencies Award 2010</i>	✓	✓		✓
MA000053	<i>Stevedoring Industry Award 2010</i>	✓	✓		✓
MA000084	<i>Storage Services and Wholesale Award 2010</i>	✓	✓	✓	✓
MA000087	<i>Sugar Industry Award 2010</i>	✓	✓		✓
MA000103	<i>Supported Employment Services Award 2010</i>	✓	✓		✓
MA000066	<i>Surveying Award 2010</i>	✓	✓		✓
MA000041	<i>Telecommunications Services Award 2010</i>	✓	✓	✓	✓
MA000017	<i>Textile, Clothing, Footwear and Associated Industries Award 2010</i>	✓	✓		FH
MA000071	<i>Timber Industry Award 2010</i>	✓	✓	✓	✓
MA000042	<i>Transport (Cash in Transit) Award 2010</i>	✓	✓	✓	✓
MA000102	<i>Travelling Shows Award 2010</i>	✓	✓		✓
MA000089	<i>Vehicle Manufacturing, Repair, Services and Retail Award 2010</i>	✓	✓	✓	✓
MA000043	<i>Waste Management Award 2010</i>	✓	✓		✓
MA000113	<i>Water Industry Award 2010</i>	✓	✓		✓
MA000090	<i>Wine Industry Award 2010</i>	✓	✓		PV
MA000044	<i>Wool Storage, Sampling and Testing Award 2010</i>	✓	✓		✓
		115	116	51	83

FB The annual leave provisions in these awards have been referred to the Full Bench dealing with other substantive issues in [AM2015/6](#) (see Statement of 23 November 2015 [\[2015\] FWC FB 8030](#))

FH A further hearing in respect of these awards will be held on 1 July 2016.

PV Provisional views have been expressed in respect of these awards and interested parties have been provided with an opportunity to comment. If any expressions of interest are received, directions will be issued for the filing of further submissions and evidence. If no expressions of interest are received by the specified date the awards will be varied to insert the excessive annual leave accruals model term.

Conf: A conference is to be held in respect of these awards.

Def: The insertion of the excessive leave model term in these 2 awards will be deferred until the second half of this year.