

From: Chambers - Hampton C <Chambers.Hampton.c@fwc.gov.au>
Sent: Wednesday, 24 August 2022 4:31 PM
To: Trevor Clarke <tclarke@actu.org.au>
Cc: AMOD <AMOD@fwc.gov.au>
Subject: C2019/5259 - Review of certain C14 rates in modern awards

OFFICIAL

Good afternoon Mr Clarke

The document has been received and will shortly be uploaded to the web site.

Commissioner Hampton directs that **any party seeking to provide comment or a submission on the proposal must do so by 1 September 2022.**

Luke Johanson

Associate to Commissioner Hampton



Fair Work Commission

Australia's national workplace relations tribunal

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The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

This email was sent from Kurna Country.

From: Trevor Clarke <tclarke@actu.org.au>
Sent: Wednesday, 24 August 2022 2:35 PM
To: Chambers - Hampton C <Chambers.Hampton.c@fwc.gov.au>
Cc: Ruchi Bhatt <Ruchi.Bhatt@aigroup.asn.au>; Kyle Scott <Kyle.Scott@ablawyers.com.au>; nathan@mcnally.com.au; jmattner@afap.org.au; Claire Gray-Starcevic <claire.gray-starcevic@unitedworkers.org.au>; Vivienne Wiles <vwiles@cfmeumd.org>; Minna Davis <mdavis@rtbu.org.au>; Stephen Crawford <stephen.crawford@nat.awu.net.au>; Craig Buckley <craig@amieuqld.asn.au>
Subject: (C2019/5259) - Review of certain C14 rates in modern awards

Good afternoon,

I refer to the above and to the conference yesterday morning. Please find attached a proposal for data query. As discussed, our suggestion was that this query be administered by the Fair Work Commission. The general format of the query mimics that suggested by us in 2019 save that:

- (a) It utilises modern award codes (not available in the 2018 data) as a method of identifying award coverage, rather than attempting a match through a combination of ANZSIC and ANZSCO codes; and
- (b) Reflects the change to field names in the data set between the 2018 and 2021 releases.

We note that our proposed method of identifying casual employees is the same as was proposed on the last occasion and was considered to be “a reasonable approach” (<https://www.fwc.gov.au/documents/sites/rates-c14-review/c20195259-corr-abs-250220.pdf>).

We would welcome any commentary on the limitations of our approach and proposals for refinement from either the interested parties, the ABS or the Commission’s research division.

As discussed at the conference, we envisage that the relevant data and award histories may be of assistance in focussing participants attention on whether there is a less formal or contentious pathway to reviewing or varying at least some of the awards currently proposed for review.

Regards,

Trevor Clarke

Manager, Industrial and Legal

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[Please note I do not work on Tuesdays](#)

Proposed Queries on ABS “Employee Earnings and Hours Survey, 2021”.

1. Benchmarks (for comparison purposes)

- (a) Number of adult [ROP=1] non managerial employees [MANAGE=2], by method of setting pay [MOSP].
- (b) Number of adult [ROP=1] non managerial employees [MANAGE=2], at or below the “cut off wage” by method of setting pay [MSOP], where workers at the cut off wage are identified in two ways:
 - I. Weekly ordinary time cash earnings [SAWOTE] divided by weekly ordinary time hour paid for [ORDWHPF], for permanent and fixed term employment [TYPEEMP=1&2];
 - II. As above, save that the cut-off wage is inflated by 25% and the group is limited to casual employees [TYPEEMP=3] who received the casual loading [CASLOAD=1].

2. For each award:

- (a) Number of persons in query 1(a) above who are covered by the award [AWARDCODE=X] by method of setting pay [MOSP]
- (b) Number of persons in query 2(a) above who are paid at or below the “cut off wage”, by method of setting pay [MOSP], where the “cut off wage” is identified in two ways
 - I. Weekly ordinary time cash earnings [SAWOTE] divided by weekly ordinary time hours paid for [ORDWHPF], for permanent and fixed term employment [TYPEEMP=1&2];
 - II. As above, save that the cut-off wage is inflated by 25% and the group is limited to casual employees [TYPEEMP=3] who received the casual loading [CASLOAD=1].

Cut-off wage:

We envisage the Cut-Off Wage would set at the NMW/C14 for 2020, because the data in the EEH survey is for the last pay period on or before 21 May 2021. There may a need to inflate this slightly (but not so as to capture any higher classification in the relevant awards) to ensure workers are not missed by virtue of the impact of rounding on weekly ordinary time cash earnings.

The Award codes used for each Award query would be those which correspond to the following awards (subject to the Commission's views concerning limiting the review in response to submissions made during the conference on 23 August):

- Cement, Lime and Quarrying Award 2020
- Concrete Products Award 2020
- Meat Industry Award 2020
- Oil Refining and Manufacturing Award 2020
- Rail Industry Award 2020
- Air Pilots Award 2020
- Dry Cleaning and Laundry Industry Award 2020
- Funeral Industry Award 2020
- Sugar Industry Award 2020
- Travelling Shows Award 2020