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Sent: Tuesday, December 19, 2023 9:39 AM
To: Chambers - Hatcher J <Chambers.Hatcher.J@fwc.gov.au>
Cc: Claudia Simmons <Claudia.Simmons@Ablawyers.com.au>
Subject: C2019/5259: Review of C14 / C13 rates
Importance: High

Dear Associate,

C2019/5259: Review of C14 / C13 rates

We refer to the above matter and to the hearing before the Full Bench yesterday.

During the course of submissions yesterday, the President, Justice Hatcher, asked whether we could provide a list of the award classifications falling into the scope of my fourth proposition (namely, award classifications that capture work or jobs that are performed on an ongoing basis).

Please now find **attached** a list of those awards falling into that category.

I make some brief comments in relation to the attached document:

1. The document has been prepared based on a review of the awards in which ABI and BNSW have a material interest. There may therefore be some additional awards that do not appear in the list but which capture work or jobs performed on an ongoing basis.
2. The document contains two separate lists, as we have identified six awards for which we consider it to be unclear whether or not the classification captures work or jobs on an ongoing / indefinite basis. Those awards are contained in the second list.
3. There are a number of other awards, not included in our document, which contain classifications that, while entry-level / transitional in nature, require either attainment of a particular skill level or successful completion of prescribed training or accreditation in order to be classified into the next level. We have not been able to identify a complete list of those awards, but some examples include the:
 - Animal Care and Veterinary Services Award 2020: Introductory level (practice managers, veterinary nurses, receptionists, animal attendants and assistants) (Schedule A.2.1).
 - Cement, Lime and Quarrying Award 2020: Cement and lime industry – Level 1 (Schedule A.1.1) and Quarrying industry – Grade 1 (Schedule B.1.1).
 - Wine Industry Award 2020: Grade 1.
 - Sugar Industry Award 2020: Cultivation/cane production inductee/trainee (CPT) (Schedule A.2.1).

Where an employee fails to complete the necessary training requirements to progress to the next level, it appears they would remain at their existing level and so, in that sense, these award classifications may apply to employees on an ongoing / indefinite basis. We anticipate there would likely be a number of other awards falling into this category.

We trust this assists the Commission.

Yours sincerely,

Kyle Scott
Director
Australian Business Lawyers & Advisors

LIST OF AWARD CLASSIFICATIONS:

Prepared by Australian Business Industrial and Business NSW in response to a question from the Full Bench on 18 December 2023

Award classifications providing a minimum rate below the C13 rate and which apply to ongoing jobs¹

1. Air Pilots Award 2020:
 - (a) First Officers and Second Pilots (Single engine UTBNI 1360 kg) (Schedule A.1.1).
 - (b) First Officers and Second Pilots (Single engine 1360 kg–3359 kg) (Schedule A.1.1).
2. Business Equipment Award 2020: Level 1 Technical Employee (Schedule A.1.1).
3. Cement, Lime and Quarrying Award 2020: Quarrying industry – Grade 2 (Schedule B.1.2).
4. Cemetery Industry Award 2020: Cemetery Employee Class 1 (Schedule A.2).²
5. Concrete Products Award 2020: Level 1 (Schedule A.1).³
6. Cotton Ginning Award 2020: Cotton ginning employee level 1 (clause 13.1).
7. Dry Cleaning and Laundry Industry Award 2020:
 - (a) Dry cleaning employee Level 1 (Schedule A.1).
 - (b) Laundry employee Level 1 (Schedule B.1).
8. Electrical, Electronic and Communications Contracting Award 2020: Electrical worker grade 1 (Schedule A.2.1).
9. Fitness Industry Award 2020: Level 1 (Schedule A.1.1).
10. Funeral Industry Award 2020: Grade 1 (clause 12.1).
11. Horticulture Award 2020: Level 1 (Schedule A.1).
12. Pastoral Award 2020: Farm and livestock hand level 1 (FLH1) (clause 31.1).
13. Textile, Clothing, Footwear and Associated Industries Award 2020: wool and basil employees, General Hand (clause 19.2).
14. Travelling Shows Award 2020: Grade 1 (clause 12.2).

¹ In considering award classification rates that fall below the C13 rate, we have not taken into account any all-purpose allowances that might apply.

² Although expressed as applying for up to 6 months' service with an employer, Schedule A.2.1 refers to tasks that may form ongoing jobs.

³ The parties identified an apparent error with the classification descriptors at A.1.3 and A.2.4. See Further Report to Full Bench [2023] FWC 716 at [36]-[37].

15. Seafood Processing Award 2020: Process Attendant Level 2 (clause 12.2).
16. Rail Industry Award 2020:
 - (a) Level 1 Rail Worker (Operations) (Schedule A).
 - (b) Level 1 Rail Worker (Technical and Civil Infrastructure) (Schedule A).
17. Sugar Industry Award 2020:
 - (a) Cane Testers 1 (CT1) (Schedule A.5.1).
 - (b) C14/L2 (Milling, Distillery, Refinery and Maintenance) (Schedules B.1.1, B.2.1 and B.3.1).
18. Wool Storage, Sampling and Testing Award 2020: Wool Industry Worker Level 1 (Wool Storage) (Schedule A.3.1).

Award classifications for which it is unclear whether they can apply to ongoing employment

1. Airline Operations – Ground Staff Award 2020: Aircraft Worker 1 (Schedule A.3.1).
2. Food, Beverage and Tobacco Manufacturing Award 2020, Level 1 (Schedule A.2.1).
3. Graphic Arts, Printing and Publishing Award 2020: Level 1 (Schedule A.1).
4. Joinery and Building Trades Award 2020: Level 1 (Schedule A.1.1).
5. Manufacturing and Associated Industries and Occupations Award 2020: C14 (Schedule A.4.3).
6. Vehicle Repair, Services and Retail Award 2020: Vehicle industry RS&R employee Level 1 R1 (entry) (Schedule A.1).