



## United Firefighters Union Victorian Branch

ABN 74 030 569 265

410 Brunswick Street  
Fitzroy Victoria 3065  
Australia  
Email: [officeadmin@ufuvic.asn.au](mailto:officeadmin@ufuvic.asn.au)  
Phone: (03) 9419 8811

Website: [www.ufuvic.asn.au](http://www.ufuvic.asn.au)  
Fax: (03) 9419 9258

Fair Work Commission  
Via email: [AMOD@fwc.gov.au](mailto:AMOD@fwc.gov.au)

12 October 2018

### Re: [2018] FWCFB 5986 – *AM2014/198 and others*

1. The UFU have been asked to make submissions in relation to two items pursuant to the decision by the Full Bench of the Fair Work Commission on 26 September 2018 regarding the 4-yearly review of modern awards (AM2014/198 and others). The submission is provided below.

#### **Item 3—Definition of overtime – private sector**

2. The UFU is asked to confirm its view regarding when overtime is payable to employees in the private sector not working a 10/14 roster.
3. The UFU continue maintain that employees not working a 10/14 roster should be paid overtime in accordance with the same principles as those working a 10/14 roster. However, it is acknowledged that the award allows as for such employees to be rostered for more than four shifts per week.
4. Similar to the approach provisionally endorsed by the Commission, the UFU submit that overtime under the Award should be payable to shift workers not working the 10/14 roster where:
  - An employee works in excess of rostered hours per shift; or
  - An employee works in excess of their weekly rostered hours.
5. This would maintain the principles for payment of overtime for 10/14 employees whilst allowing that they may work a different roster.

#### **Item 4—roster employees and other public sector employees**

6. The UFU is asked to confirm their view on whether the rate of pay for an employee whilst on annual leave would be at the total weekly rate (where applicable), the ordinary hourly rate (where applicable), or on some other basis<sup>1</sup>.
7. The UFU submit that annual leave should be payable on the basis of an employee's total wage.

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<sup>1</sup> [2018] FWCFB 5986

8. The reason for this is that for it to be paid on another basis would create an unfairness to employees in that they would receive a lower rate of pay during leave periods relative to periods where they are at work.
9. This would not reflect current or previous practise within fire services in either the public or private sectors.
10. Employees in all fire services continue to receive their total wage during annual leave which reflects that it is a 'rolled in rate'. Annual leave loading is not currently payable to any fire service employees covered by the Award. This also reflects that employees receive a rolled in rate, inclusive of penalties, during annual leave.
11. Annual leave loading is also not payable under the award which suggests a similar intention that employees would receive an amount during annual leave which includes a component for penalties.
12. The UFU note that the issue will be the subject of a conference before Justice Ross on 11 November. We consider that it may be beneficial for the issue to be further ventilate during the scheduled conference.

Yours faithfully,



Jeremy Murphy  
Industrial Officer  
United Firefighters Union