

# CFMEU

## CONSTRUCTION

### IN THE FAIR WORK COMMISSION

**Matter Number:** AM2014/75

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

**4 yearly review of modern awards – Manufacturing and Associated Industries and Occupations**

**Award 2010**

**(AM2014/75)**

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**SUBMISSION OF THE CONSTRUCTION, FORESTRY, MINING AND ENERGY  
UNION (CONSTRUCTION & GENERAL DIVISION) ON ERRORS AND FURTHER  
OUTSTANDING TECHNICAL AND DRAFTING ISSUES**

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30<sup>th</sup> June 2017

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## **Introduction**

1. The Fair Work Commission (the Commission) is currently undertaking a 4 yearly review of modern awards (the Review) as required by s.156 of the *Fair Work Act 2009* (the FW Act). On the 9<sup>th</sup> June 2017, a Full Bench issued a decision ([2017] FWCFB 3177) on a number of technical and drafting issues arising from the exposure drafts based on the *Manufacturing and associated Industries and Occupations Award 2010* (the Manufacturing Award) and the *Professional Diving Industry (Industrial) Award 2010* (the Industrial Diving Award). The Full Bench decision indicated at paragraph [119] that the exposure draft based on the Manufacturing Award would be republished to reflect the outcome of the decision and that any errors identified in the revised exposure draft should be filed by 4pm on 30<sup>th</sup> June 2017. The decision at paragraph [121] also set the same deadline for identifying any further outstanding technical and drafting issues in this award.
2. The CFMEU (Construction and General Division) (the CFMEU C&G) has an interest in the Manufacturing Award which covers employees who are members of the CFMEU C&G. The CFMEU C&G has reviewed the republished exposure draft (posted to the website on 13<sup>th</sup> June 2017) and identified a number of errors/drafting issues which it wishes to draw to the attention of the Commission and other parties, and which are set out below.

### **Clause 6.4 Casual Employment**

3. The provisions in clauses 6.4(b)(iv) and (v) are new provisions taken from *the Vehicle Manufacturing, Repair, Services and Retail Award 2010* (the Vehicle Award), and should only apply to casual vehicle manufacturing employees engaged in the technical field. The wording in the exposure draft does not contain any such limitation and the provision would therefore apply to all casual employees engaged in the technical field covered by the award. The exposure draft should be corrected to limit the application of clauses 6.4(b)(iv) and (v) to casual vehicle manufacturing employees engaged in the technical field.

### **Clause 6.7 Supervisor/trainer/co-ordinator field and Clause 6.8 Conditions of Employment**

4. The new provisions in clauses 6.7 and 6.8 are taken from the Vehicle Award and only apply to vehicle manufacturing employees. The heading in clause 6.7 should reflect this limitation (i.e. Supervisor/trainer/co-ordinator field – vehicle manufacturing). Also the numbering should be changed as clause 6.8 is really clause 6.7(b).

## **Clause 7 Apprentices**

5. In clause 7.4 reference is made to “Manufacturing Skills Australia or its successor”. Manufacturing Skills Australia is also referred to in various other clauses of the exposure draft. Manufacturing Skills Australia is no longer the Skills Services Organisation for the industry and has been replaced by Innovation and Business Skills Australia<sup>1</sup>. This new organisation should now be used throughout the exposure draft.
6. On a similar note, clause 7.4 refers to the National Skills Standards Council which was disbanded in 2014. The new body that endorses training packages is the Australian Industry and Skills Committee.
7. Clause 7.4 also refers to a number of apprenticeships taken from the Vehicle Award, i.e. Boilermaker and/or structural steel tradesperson, Electrical mechanic, Moulder and/or coremaker (jobbing), and Wood machinist – 1<sup>st</sup> class. It is suggested that the titles of the apprenticeships should be updated.

## **Clause 9.2 Technology Cadets**

8. In clause 9.2(a)(iii) the list of relevant State or Territory legislation should be updated (the Plain language draft of Miscellaneous Award 2010 NTW Schedule<sup>2</sup> contains an updated list).
9. Also references to “National Skills Standards Council” and “Manufacturing Skills Australia” in clause 9.2(a)(v), and “National Training Quality Committee” in 9.2(a)(vii) should be changed to the new respective organisations.

## **Clause 10.4 Payment of fees**

10. Clause 10.4 Payment of fees, is a new provision. The CFMEU C&G has not been able to identify where this clause came from or who it is intended to apply to.

## **Clause 16.4 Classifications**

11. In clause 16.4(c)(i) the words “distributed by Manufacturing Skills Australia “MSA” ([www.mskills.com.au](http://www.mskills.com.au))” should be replaced with “available from VETNET (<https://vetnet.education.gov.au/>).”

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<sup>1</sup> <http://www.mskills.org.au/>

<sup>2</sup> See <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/2017fwcfb3349.pdf>

### **Clause 17 Apprentice minimum wages**

12. As the apprentice wage rates for stages 3 and 4 are the same for apprentices who commenced an apprenticeship prior to 1 January 2014 and apprentices who commenced an apprenticeship on and from 1 January 2014, clauses 17.1 and 17.5 could be deleted.

### **Clause 27.2(k) Carpenters' allowance**

13. Clause 27.2(k) Carpenters' allowance is taken from the Vehicle Award. The CFMEU C&G would question whether this allowance is still relevant as it is highly questionable whether or not any vehicle manufacturing company would be carrying out their own "large structural alterations" to buildings. These days any such work would be outsourced to building companies covered by the *Building and Construction General On-site Award 2010*. If the allowance is retained then it should be limited to vehicle manufacturing.

### **Clause 28.4 Superannuation fund**

14. Clause 28.4(h) can be deleted as the Allied Union Superannuation Trust of Queensland (Aust (Q)) no longer exists as a separate fund and is now part of AustralianSuper.

### **Clause 38 Abandonment of employment**

15. A green box should be inserted under the heading of clause 38. Abandonment of employment, to say that "This provision is being reviewed in AM2016/35".

### **Clause 39.2 Notice of termination by an employee**

16. In clause 39.2 the word "withhold" is missing from the 2<sup>nd</sup> sentence.

### **Schedule C – Summary of Wage Rates**

17. It is noted that the Full Bench has already identified that the rates in Schedule C have not been adjusted for the 2016-17 Annual Wage Review.<sup>3</sup>
18. In the table in clause C.1.2 of Schedule C – Summary of Wage Rates, the percentage of "125%" in the second row is incorrect. The correct percentage is "200%".
19. In clause C.3.2 ((b) the heading should be amended to identify that the rates are only applicable to vehicle manufacturing.

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<sup>3</sup> [2017] FWCFB 3177 at paragraph [40]

**Schedule D – Summary of Monetary Allowances**

20. The amounts of the allowances in Schedule D – Summary of Monetary Allowances, need to be adjusted for the 2016-17 Annual Wage Review.

**Schedule G – National Training Wage**

21. The training packages listed in clause G.7 Allocation of Traineeships to Wage Levels, in Schedule G – National Training Wage, will need to be updated. The CFMEU C&G notes that this schedule is to be reviewed in AM2016/17.

**Schedule I – Definitions**

22. The new definitions of “dogman” and “rigger” in Schedule I – Definitions, are taken from the Vehicle Award. They should include the words “vehicle manufacturing” before “employee” in each definition. This change is necessary as these definitions are peculiar to vehicle manufacturing.
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