

FAIR WORK COMMISSION

Matter No.: AM2016/5

Seagoing Industry Award 2010 ***Ports Harbours and Enclosed Water Vessels Award 2010***

4 Yearly Review of Modern Awards

Submission of CSL Australia Pty Ltd

- 1 CSL Australia Pty Ltd (**CSL**) makes these submissions in relation to the *Seagoing Industry Award 2010 (SIA)* and *Ports Harbours and Enclosed Water Vessels Award 2010 (Ports Award)* (together the **Awards**), as part of the 4 Yearly Review of Modern Awards (**Proceedings**).
- 2 These submissions respond to:
 - (a) submissions made by the Australian Institute of Marine and Power Engineers (**AIMPE**) on 10 May 2016 (**AIMPE submissions**) regarding variations to the Awards;
 - (b) the application to vary the Awards lodged by Sea Swift dated 12 and 15 April 2016 (**Sea Swift application**),made in these proceedings.
- 3 References in these submissions are to the Exposure Drafts of the Awards unless otherwise stated.

AIMPE submissions

A. Seagoing Industry Award 2010: Proposed Electrician/Electro Technical Officer classifications

- 4 AIMPE's submissions seek to insert a classification of Electrician/Electro Technical Officer at the same level as Second Mate/Second Engineer in all wage schedules in Part 4 (clause 10.1) of the SIA.
- 5 CSL's submissions of 21 September 2015 lodged in the Proceedings responded to AIMPE's earlier submissions regarding this variation (dated 15 July 2015).
- 6 CSL does not oppose the insertion of classifications of Electrician and Electro Technical Officer into the Part 4 wage schedules. However, these classifications should be inserted at the correct wage relativity for each of the classifications. This is necessary for compliance with the modern award objective pursuant to section 134(1) of the *Fair Work Act 2009*, which obliges the Commission to ensure that modern awards must provide a fair and relevant minimum safety net taking into account (among other things) the principle of equal remuneration for work of equal or comparable value (s 134(1)(e)).

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- 7 Any new classifications should be benchmarked against existing comparable classifications to maintain appropriate wage relativities, in accordance with the long-standing approach taken by the Commission and its predecessors.
- 8 The issue of appropriate wage relativity and benchmarking in the seagoing industry was considered in relation to the conversion of the *Maritime Industry Seagoing Award 1999 (MISA)* from a paid rates to a minimum rates award in proceedings before Commissioner Wilks in matter C No.00107 of 1998 [Print Q9604] as part of the award simplification process. In those proceedings, it was accepted as a consent position between the parties that the Integrated Rating classification had a relativity of 97.5% with the metal industry fitter, recognising the C10 industry fitter classification in the *Metal, Engineering and Associated Industries Award 1998* as representing 100%. An additional 10% – comprising an extra 5% in relation to skills competency and an extra 5% relating to the ‘nature of the industry’ – resulted in the acceptance of a relativity of 107.5% between the Integrated Rating classification and the metal industry fitter.
- 9 To establish the appropriate classification level and wage relativity for the classifications of Electrician and Electro Technical Officer, it is submitted that benchmarking against equivalent classifications in shore-based awards (ie the *Electrical, Electronic and Communications Contracting Award 2010*) must be undertaken.
- 10 The AIMPE submissions do not explain why the classifications of Electrician and Electro Technical Officer should be inserted at the same level. In our submission, the classification of Electrician is a lower level classification relative to Electro Technical Officer.
- 11 Reference is made in the AIMPE submissions to the fact that classifications in Part B (Schedule A of the Exposure Draft) of the SIA include the classification of Electrical Engineer at the Second Mate/Second Engineer level. In response, it is submitted that:
- (a) no basis is provided in the AIMPE submissions as to how the classifications of either Electrician or Electro Technical Officer equate to an Electrical Engineer;
 - (b) Part B classifications (for vessels operating under a temporary licence) are not an appropriate benchmark for Part 4 classification and wage schedules;
 - (c) even if Part B classifications were relevant, Part B contains the classification of Electrician at the Chief Integrated Rating relativity - two levels below the Second mate/Electrical Engineer relativity proposed in the AIMPE submissions.
- 12 CSL submits that a comparable shore-based classification for an Electrician would be the classification of Electrical worker grade 5 under the *Electrical, Electronic and Communications Contracting Award 2010* (\$764.90 per week or \$39,774.80 per annum). Adopting a similar approach to the proceedings referred to in paragraph 8 of these submissions, the appropriate wage relativity under the SIA would be no higher than Chief Integrated Rating in our submission.
- 13 It is acknowledged that:
- (a) there is now an approved course of study offered by the Australian Maritime Safety Authority for the qualification of Electro-technical Officer; and
 - (b) completion of this course, together with the fulfilment of some additional requirements, will qualify a seafarer for an Electro-technical Officer Certificate of Competency.
- 14 Our understanding of the certification requirements is that, while the holding of an electrical trade certificate or equivalent is a requirement, there are additional requirements to obtain the Electro-technical Officer Certificate of Competency.

- 15 A determination of the appropriate wage relativity for new Electro Technical Officer and Electrician classifications must involve an appropriate benchmarking exercise, including consideration of the skills and qualifications required for each classification.
- 16 The AIMPE submissions provide no basis upon which the Commission can satisfy itself that the Second Mate/Second Engineer level is the appropriate wage relativity for a classification of Electro Technical Officer or Electrician.

B. Seagoing Industry Award 2010: New Small Vessel Schedule

- 17 The AIMPE submissions propose the insertion into Part A of the Award of a new schedule of classifications for Dry Cargo vessels of up to 6000 tonnes to cover Transshipment Vessels and Small Ships, and to include the classifications of Fitters and Boilermakers.
- 18 The Sea Swift application seeks the introduction of a schedule for dry cargo vessels of up to 5,000 tonnes to cover self propelled barges and small vessels engaged in in-shore and near coastal trading work.
- 19 CSL does not oppose the insertion of a new classification schedule for smaller dry cargo vessels as proposed by AIMPE and Sea Swift (noting that their proposals differ in terms of the maximum size of the vessel to be covered by the new schedule).
- 20 We respectfully request an opportunity to make further submissions in relation to appropriate wage rates.

C. Ports Award: Wage relativities - Master and Engineer

- 21 AIMPE submits that when the Ports Award was made, the wrong relativity applied between Master and Engineer, and that the Engineer wage rate should have been the same as the wage rate for Masters.
- 22 CSL opposes AIMPE's submission in this regard.
- 23 CSL submits that the existing wage differential between Master and Engineer properly reflects the chain of command between the Master and the Engineer and should be retained.
- 24 Pursuant to the *Navigation Act 2012 (Cth)*, the master is the person who has command or charge of a vessel. The master also has additional obligations including statutory responsibilities by virtue of being in command or charge of a vessel (for example, pursuant to Marine Order 28 (Operations standards and procedures) 2015. The wage relativity that currently exists between Master and Engineer should be retained to recognise these additional responsibilities.

Sea Swift application

- 25 Sea Swift has made application to vary the coverage provisions of the SIA, Ports Award and *Marine Towing Award 2010*.
- 26 CSL supports the submissions of Sea Swift in relation to its application to vary the coverage provisions of the three awards as set out in the Sea Swift application.

**Hall & Wilcox
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