

From: Michael Butler <mButler@professionalsaustralia.org.au>
Sent: Wednesday, 2 October 2019 1:59 PM
To: AMOD <AMOD@fwc.gov.au>; Chambers - Hatcher VP <Chambers.Hatcher.VP@fwc.gov.au>
Subject: AM2019/5 - Professional Employees Award - Joint Negotiating Document - 1 October 2019 .pdf

To Whom It May Concern

Further to the Commissions' Directions in respect of the abovementioned matter.

An Outline of Submission was lodged by the Ai Group dated 30 September 2019.

At paragraph 4 of the submission it was stated commencing at the third sentence that;

"Since APESMA filed its submission on 15 July, a couple of minor issues have been identified with the wording in Attachment A. Some minor modifications have been discussed between Ai Group and APESMA to address these issues and it is Ai Group's understanding that APESMA intends to file an updated version of Attachment A".

I can advise that the statement from the Ai Group is correct and accordingly I attach a new version of Attachment A to replace the original version attached to the APESMA Outline of Submission dated 15 July.

APESMA will file its submission in – reply by the due date of 14th October 2019.

Yours Sincerely

Michael Butler
Director Industrial Relations



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ATTACHMENT A

DRAFT AWARD VARIATIONS – PROFESSIONAL EMPLOYEES AWARD 2010 – JOINT NEGOTIATING DOCUMENT (APESMA and Ai GROUP)

1 OCTOBER 2019

Important Note: The clauses identified as “Agreed” are only agreed in the context of the whole package that has been negotiated. If the FWC does not support the whole package, Ai Group and APESMA have reserved their rights to argue against any of the claims.

CLAUSE 2 – DEFINITIONS AND INTERPRETATION

Experienced information technology employee means a professional information technology employee with the undermentioned qualifications in any particular employment the adequate discharge of any portion of the duties of which employment requires:

- (a) that they have graduated with a university degree, with a science or information technology major (three, four or five year course) and had four years’ experience on professional information technology duties since graduating; or
- (b) that they, not having so graduated, have sufficient qualifications and experience to be a Certified Professional of the Australian Computer Society plus a further four years’ experience on professional information technology duties. **[AGREED]**

Graduate information technology employee means a person who:

- (a) holds a university degree with a science or information technology major (three, four or five year course) accredited by the Australian Computer Society at professional level; or
- (b) has sufficient qualifications and experience to be a Certified Professional of the Australian Computer Society. **[AGREED]**

professional information technology duties means duties carried out by a person in any particular employment the adequate discharge of any portion of which duties requires a person to:

- (a) hold a university degree with a science or information technology major (three, four or five year course) accredited by the Australian Computer Society at professional level; or

(b) has sufficient qualifications and experience to be a Certified Professional of the Australian Computer Society. **[AGREED]**

Academic schedule

- (a) A degree in science from an Australian, New Zealand or United Kingdom university or from an Australian tertiary educational institution.
- (b) Academic qualifications acceptable to the Royal Australian Chemical Institute for admission to the grade of Graduate Chemist (MRACI), Early Career Chemist (MRACI)(CChem) or Member (MRACI). **[AGREED]**
- (c) Academic qualifications acceptable to The Australian Institute of Physics for admission to the grade of Member (MAIP). **[AGREED]**
- (d) Academic qualifications in metallurgy, metallurgical engineering or technology acceptable to either the Australasian Institute of Mining and Metallurgy for admission to the grade of Graduate Member, or the Institution of Materials, Minerals Mining (London) for admission to the grades of Professional Graduate Member or Associate Member. **[AGREED]**
- (e) Academic qualifications acceptable to the Australian Institute of Agricultural Science and Technology for admission to the category of 1st Year Graduate Member, 2nd Year Graduate Member or Full Member. **[AGREED]**
- (f) Academic qualifications acceptable to the Australian Institute of Food Science and Technology for admission to the grade of Graduate Member. **[AGREED]**
- (g) Academic qualifications acceptable to a pharmacy board or council within the Commonwealth of Australia provided that the award will not apply to pharmacists employed in a retail pharmacy shop.

Experienced scientist means a Professional scientist possessing the following qualifications and engaged in any particular employment, the adequate discharge of any portion of the duties of which, requires the possession of such qualifications.

The qualifications are:

- (a) A degree or diploma and the following further experience in professional scientific duties obtained after their degree or diploma: **[AGREED]**
 - (i) when a graduate (four or five year course) – four years' experience;
 - (ii) when a graduate (three year course) – five years' experience, or

- (b) that they possess qualifications acceptable to:
- (i) the Royal Australian Chemical Institute for admission to the grade of Chartered Member; or [AGREED]
 - (ii) the Australian Institute of Physics for admission to the grade of Member (MAIP); or [AGREED]
 - (iii) the Australasian Institute of Mining and Metallurgy for admission to the grade of Member; or [AGREED]
 - (iv) the Australian Institute of Food Science and Technology for admission to the grade of Professional Member. [AGREED]

13. ORDINARY HOURS OF WORK AND ROSTERING

13.1 For the purpose of the NES, ordinary hours of work under this award are 38 per week.

13.2 An employee who by agreement with their employer is working a regular cycle (including shorter or longer hours) must not have ordinary hours of duty which exceed an average of 38 hours per week over a six-month cycle. [AGREED]

13.3 Level 1 – Graduate Professional and Level 2 – Experienced Professional

- (a) For employees at Level 1 – Graduate Professional and Level 2 – Experienced Professional, employers must compensate for:
- (i) time required by the employer to be worked in excess of ordinary hours of duty; [AGREED]
 - (ii) time required by the employer to be worked on call-backs; [AGREED]
 - (iii) time required by the employer to be spent standing by in readiness for a call-back; [AGREED]
 - (iv) time required by the employer to be spent carrying out professional engineering duties or professional scientific/information technology duties outside of the ordinary hours of duty over the telephone or via remote access arrangements; or [AGREED]
 - (v) time required by the employer to be worked on afternoon, night or weekend shifts or on public holidays. [AGREED]

- (b) Compensation may include:
- (i) granting time off on the basis of one hour of time off for each additional hour worked beyond the ordinary hours of work; Time off shall be taken at a time agreed upon between the employer and employee within 12 months, or paid out by the employer at the minimum award rate specified in clause 14.1. **[Ai GROUP TO CLARIFY POSITION AFTER CONSULTATION WITH MEMBERS]**
 - (ii) granting special additional remuneration;
 - (iii) taking relevant factors in clause 13.3 into account in the fixation of an annual salary; **[AGREED]** or
 - (iv) granting a special allowance or loading.
- (c) An employee shall be advised in writing by the employer of the method of compensation being used in respect of any of the matters specified in clause 13.3(a). If the employer is compensating the employee by a method identified in clause 13.3(b)(ii) or clause 13.3(b)(iv), the employer shall identify the amount of the special additional remuneration, special allowance or loading that is being paid. **[AGREED]**
- (d) In circumstances where an employee is paid compensation in accordance with clause 13.3(a)(v) for work on afternoon, night or weekend shifts or on public holidays in an office or other establishment where the majority of employees are carrying out similar work in the same work environment and are entitled to loadings or penalties for such similar work in the same working environment under a different award, the employee's compensation shall not be less than the compensation paid to the majority of employees. **[AGREED]**
- (e) The compensation in clause 13.3(a) and (b) must be reviewed annually to ensure that it is set at an appropriate level having regard to the factors listed in this clause. **[AGREED]**
- (f) If an employee is paid an annual salary in accordance with clause 13.3(b)(iii), the employer must each 12 months, or at the end of a cycle of averaging of the 38 hour week, or upon termination of employment, calculate the number of ordinary hours worked by the employee and any additional hours that the employee was required by the employer to work. If the salary that has been paid is less than the amount that the employee would have received if the employee was paid at the relevant minimum award rate in clause 14.1 for each ordinary hour and each additional hour that the employee was required by the employer to

work, the employer shall pay the employee the amount of the shortfall within one month. **[AGREED]**

(g) The employer must keep a record of the ordinary hours of work and any additional hours that the employee is required by the employer to work. In addition, the employer must keep a record of the arrangements implemented in accordance with clause 13.3(b). The employer must make a copy of these records available for inspection and copying on request by the employee to whom the record relates. **[AGREED]**

13.4 Level 3 Professional and Level 4 Professional

(a) For employees classified at Level 3 – Professional or Level 4 – Professional, employers must compensate for:

(i) time required by the employer to be worked regularly in excess of ordinary hours of duty; **[AGREED]**

(ii) time required by the employer to be worked on call-backs; **[AGREED]**

(iii) time required by the employer to be spent standing by in readiness for a call-back; **[AGREED]**

(iv) time required by the employer to be spent carrying out professional engineering duties or professional scientific/information technology duties outside of the ordinary hours of duty over the telephone or via remote access arrangements; or **[AGREED]**

(v) time required by the employer to be worked on afternoon, night or weekend shifts. **[AGREED]**

(b) Compensation may include:

(i) granting special additional leave;

(ii) granting special additional remuneration;

(iii) taking relevant factors in clause 13.4(a) into account in the fixation of an annual salary; **[AGREED]**

(iv) granting a special allowance or loading.

13.5 Transfers

- (a) Where an employee is transferred permanently from day work to shiftwork or from shiftwork to day work, such employee should receive at least one month's notice, unless the employer and the employee may agree on a lesser period of notice.
- (b) Clause 13.7(a) is subject to the requirements of clause 24—Consultation about changes to rosters or hours of work.