

AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996

s.576E - Procedure for carrying out award modernisation process

Request from the Minister for Employment and Workplace Relations

(as revised 2 May 2009)

Award modernisation

(AM/2008/44)

Submission of the Australian Mines and Metals Association

regarding the exposure draft of the

Hydrocarbons Industry (Upstream) Award 2010

15 June 2009

INTRODUCTION

1. The Australian Mines and Metals Association (**AMMA**) has reviewed the exposure draft of the Hydrocarbons Industry (Upstream) Award 2010 (**HISA**).
2. In the intervening period between making its submission on the making of the Hydrocarbons Industry (Upstream) Award 2010 and the publication of the exposure draft Award, the Award Modernisation Request was varied.

SCOPE

3. AMMA supports the coverage clause contained in the exposure draft of the Hydrocarbons Industry (Upstream) Award 2010.

WORKING ARRANGEMENTS AND ANNUAL LEAVE

4. Paragraphs 33A and 33AA of the revised request concerns the continuation of working arrangements in industries and occupations where remote work is performed.
5. As can be seen by the original submission made by Woodside supported by the original submissions of AMMA, and more recent submissions made by Woodside and other employers in the industry (including Imperial Snubbing Services; INPEX Browse, Halliburton, AJ Lucas, Apache Energy), the majority of work covered by the Hydrocarbons Industry (Upstream) Award 2010 is performed in remote locations on shift arrangements that involve the working of shifts of 12 ordinary hours over a 24/7 roster cycle.
6. At the initial hearing on 24 March 2009 the AWU representative, Ms Angus said at PN422 *"It would not be our intention that a modern award issue that required or compelled any changes to any existing rostering patterns. That's not what we're seeking here. In our submission the award, can and should contain sufficient flexibility to accommodate existing rostering arrangements."* [emphasis added]. AMMA supports this position.
7. AMMA contends that hours of work, rostering and annual leave arrangements provided in the exposure draft meet the needs of the industry and the requirements of the revised Award Modernisation Request. AMMA contents that these provisions should not be varied.

RATES OF PAY

8. In paragraph 145 of its decision of 22 May 2009, the Full Bench indicated that it would be assisted by submissions concerning how the rates of pay in AMMA's draft *Hydrocarbons Industry (Upstream) Award 2010 (HIUA)* were calculated.
9. The Exposure Draft sets the trade rate equivalent to the trade rate in the Manufacturing and Associated Industries Award 2010 (**Manufacturing Award**) and then sets other rates so that they are consistent with the Mining Award 2010 (**Mining Award**).
10. The reason for the discrepancy between this approach and the draft HIUA is that historically a consistent approach has not been taken. The rates in the HIUA were derived using the trade rate from the *Australian Workers' Union Construction and Maintenance Award 2002 (Construction Award)*, which is Construction Worker Level 3. AMMA used that rate as the Construction Award is presently incorporated in Part II Section D of the Hydrocarbons & Gas (Production and Processing Employees) Award 2002 (**Hydrocarbons Award**) for maintenance and modification trades employees. AMMA used this rate as it appeared in the Hydrocarbons Award rather than the Manufacturing Award rate.
11. The current Construction Worker Level 3 rate is \$685.90 (as adjusted by the AFPC), which differs from the Manufacturing Award rate and this produced the discrepancy. However, AMMA considers that the approach taken in the

Exposure Draft is the preferable approach. AMMA considers that it is desirable that there be consistency in the level of the trade rate across different industries, based on the Manufacturing Award. We also support consistency with the Mining Industry for other classification rates.

ALLOWANCES

12. In paragraph 146 of its decision of 22 May 2009, the Full Bench requested the parties to give consideration to the calculation of the allowances in the exposure draft. AMMA has done so and confirms that the value of the allowances is consistent with its proposed draft HIUA. AMMA supports the calculation of the value of the allowances in the Exposure Draft.

13. The Full Bench also invited further submissions concerning an allowance for the recovery of an initial travel costs from the place of engagement to work outside a capital city. For example, where an employee is engaged in Melbourne but will work at a remote site in Western Australia, the initial travel costs are for the employee travelling from Melbourne to the remote location (or point of assembly). The purpose of the allowance is to permit an employer to retain the cost of initial travel from an employee's wages for the six month period following engagement. In the event that the employment continues beyond this six month period, the employer is required to bear the initial travel costs and refund it to the employee. However, if the employment ends during the six month period, the employee is required to bear the initial travel costs.

14. This allowance is derived from equivalent provisions in certain provisions of the Key Hydrocarbons Awards. See, for example, clause 10.5 of Part 1, clause 13.2 of Part III and clause 8.8 of Part IV of the Hydrocarbons Award; and clause 21.7 of *Oil Drilling Rig Workers' AWU (Onshore) Award 1999*. AMMA submits that the allowance is an appropriate balance of whether the employer or the employee should bear the cost of initial transport and that the allowance should be retained.

CONCLUSION

15. AMMA submits the exposure draft of the modern Hydrocarbons (Upstream) Industry Award complies with the requirements of Part 10A of the Workplace Relations Act and the revised Award Modernisation request.

16. The exposure draft will allow the industry to continue its existing working arrangements without interruption, an approach endorsed by AMMA and the AWU in previous hearings.

17. AMMA commends the work of the Commission to date and supports the making of the modern Hydrocarbons Industry (Upstream) Award in the terms of the exposure draft.

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AMMA
15 June 2009