

FAIR WORK COMMISSION

AM2014/254 – Airline Operations-Ground Staff Award 2010

Exposure Draft Award - Submissions in reply on behalf of Qantas Group

Introduction

1. We refer to the submissions filed by interested stakeholders with respect to the *Exposure draft Airline Operations – Ground Staff Award 2010* published by the Fair Work Commission on 2 June 2010 (**Exposure Draft Award**).
2. These submissions are made in reply on behalf of the Qantas Group. We have indicated where we support or do not otherwise agree with the submissions made by other stakeholders.

Ai Group

3. Clause 2 (Definitions) – We agree that the reference in clause 2 should be amended.
4. Clause 11.1 (Casual employment) – We support adopting a common approach to describing casual employment across modern awards (unless there are special circumstances which warrant departing from the definition). Both the current Award and other awards operating in the aviation sector (such as the *Aircraft Cabin Crew Award 2010*) describe a casual employee as "an employee engaged as such". This wording accurately describes persons who are casual employees for the purposes of the award, and should be preferred.
5. Clause 11.2 (Casual employment) – We agree with and support the submissions of Ai Group with respect to casual award rates of pay and request that the amendments be made to remove the potential for uncertainty as to the casual rates of pay under this modern award.
6. Clause 17.3 (Shift rates) – We note Ai Group's detailed submissions with respect to rates and loadings. As a general proposition, we do not consider that this approach should be taken in this award unless it is proposed by the Commission to take this approach across all Modern awards, so that consistent terminology is used.
7. Clause 18 (Minimum wages) – We agree with the amendments proposed to clause 18.
8. Schedule B (Summary of hourly rates of pay) – We note Ai Group's detailed submissions about the drafting of Schedule B. We do not agree with the suggested changes to Schedule B. In particular, we submit that it is not appropriate to refer to (or attempt to incorporate) all purposes allowances in these tables.

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TWU

9. Clause 17.4 (Permanent night shift) – We note the TWU's submissions with respect to permanent night shifts. We agree that the definition of permanent night shift can be deleted from clause 2 of the Exposure Draft, given it is replicated in clause 17.1(d).
10. However, we think the issue identified by the TWU can be remedied by the following amendment to clause 17.4 of the Exposure Draft: delete the words "An employee on permanent night shift" and replace with "If, during a period of engagement a shiftworker works permanent night shift, the employee ...". This amendment picks up on the wording in the current Award. We do not think the remaining amendments proposed by the TWU to clause 17 and Schedule B.2.2 are necessary.
11. Clause 12.16 (Travel payment for block release training) – We also agree that clauses 12.16(c) and (d) are identical and that one (clause 12.16(c)) can be deleted.

AMWU

12. Clause 2 (Definitions) – We note the AMWU's submission with respect to the drafting of the definition "airline operations industry". We support the AMWU's primary submission to retain the definition in the current Award. The definition of airline operations industry was the outcome of consultation between stakeholders during the Part 10A award modernisation process. We do not think the amendments proposed by the Fair Work Commission necessarily make the clause easier to read, and it appears that they may create confusion. Accordingly, we respectfully submit that the current Award wording should be retained.
13. Clause 11.1 (Casual employment) – We refer to our submissions at paragraph 4 above.
14. Clause 21 (Indemnity/insurance) – We refer to our submissions filed on 30 June 2016 in respect of this issue, and maintain our position that the rates in clause 21 should remain as they are and should not be subject to annual indexation (either as an expense-related allowance or in accordance with the annual wage review decisions). The history of this clause does not support the amounts being adjusted. There was a one-off increase to the amount of injury cover in clause 21.4 on 1 July 2010. The amount has not been indexed since that time. We respectfully submit that any proposed increase to the amounts in these clauses should be the subject of a substantive variation application and supported by evidence.
15. We are neutral with respect to the other amendments proposed by the AMWU, noting they are in the nature of technical amendments.

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AWU

16. Clauses 7.2, 7.3, 7.4 (Facilitative provisions) – We note the AWU's proposed amendments with respect to the structure of the categorisation of facilitative provisions. While these clauses are summary tables, it is preferable that they set out the correct position with respect to the facilitative provisions.
17. Clause 7.2 – We do not agree with the effect of the AWU's submission, which is to move clause 28.4(b) to the table at clause 7.2, and support it being included in the table at 7.3 as proposed by the Commission.
18. Clause 7.3 – We do not agree with the AWU's deletion of clauses from the table at clause 7.3, and instead support the terms of the Exposure Draft Award.
19. Clause 7.4 – We do not agree with the AWU's amendments to the table at clause 7.4, and instead support the terms of the Exposure Draft Award.
20. Clause 10.2(b) (Part-time day workers) – We do not agree with the AWU's submissions, and note that the drafting in the Exposure Draft reflects the drafting of the current Award.
21. Clause 12.16 (Travel payment for block release training) – We agree and repeat our comments at paragraph 11 above.
22. Clause 15.1(a) (Method of arranging ordinary hours) – We do not agree with the AWU's submissions about this clause, and note that the reference to clause 14.2(c) in the Exposure Draft Award reflects the corresponding cross-reference in the current Award (ie clause 28.2(c), about when ordinary hours are to be worked). We support the terms of the Exposure Draft Award.
23. Clause 17.5 and Schedule B (Continuous and afternoon shifts) – We do not support the proposed amendments to the wording of these clauses. Importantly, any such amendments have the potential to change the meaning of the clause, which is well settled.
24. Clause 18.7(c) (Payment of wages) – We consider that the reference to "full-time employees" in this clause is appropriate, and consistent with clause 11.5(c) of the current Award. We respectfully submit that introducing a term of "permanent employees" into the Exposure Draft Award is potentially confusing and unhelpful. We support the terms of the Exposure Draft Award.
25. Clause 21 (Indemnity/insurance) – We refer to our submissions at paragraph 14 above.
26. Clause 23.1(b) – We do not agree with the submissions about this clause, and note the Exposure Draft wording more properly reflects the current Award.

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27. Clause 23.1 (Overtime) – We note the AWU's submission about the deletion of clause 32.1(c) of the current Award. We do not think it is necessary to reinstate the clause given that Schedule B now sets out the overtime rates of pay consistent with the approach being taken across all modern awards.
28. Schedule B.1.1 (Ordinary hourly rate) – The tool allowance is expressed to be for all purposes of the award, but not for all classifications. Similarly, the allowances prescribed by clause 19.7(a) are not payable for all classifications. We suggest that the tool allowance provision be added to the list at clause 19.7(a).
29. Schedule B.2.4, B.3.4, B.4.4, B.5.4 (Continuous shiftworkers) – We note the AWU's submissions with respect to the overtime rate for shiftworkers who work Sundays. We do not agree that such employees are entitled to double time (200%) for hours worked on Sundays and we support the terms of the Exposure Draft Award. In particular:
- (a) The shift penalty rates for working Sundays are prescribed by clause 17.7. For shiftworkers, the rate is 200%;
 - (b) However, clause 23.1 sets out the rates for working overtime. It is clear that overtime is paid at 150% for the first two hours and 200% thereafter. This is the case for all employees, except for continuous shiftworkers, where "the rate for working overtime is 200% of the ordinary hourly rate";
 - (c) Continuous shiftwork is defined at clause 14.3(a) via reference to the system of work;
 - (d) Shiftworkers who are not continuous shiftworkers are entitled to 200% for ordinary hours worked on Sundays (their ordinary hours), but for overtime hours, the rates payable are 150% for the first two hours and 200% thereafter.

ASU

30. Clause 17.4 – We repeat our submissions at paragraphs 9 and 10 above.
31. Clause 17.6 – We note the ASU's submission and the potential for confusion arising from the Commission's proposed amendments to the clause. We respectfully submit that the wording in the current Award should be retained.

We welcome the opportunity to make oral submissions to support these written submissions on the Exposure Draft Award.

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