



SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF
EMPLOYERS AND INDUSTRIES (AFEI)

AM2008/16

AWARD MODERNISATION

AFEI
Australian Federation of
Employers & Industries

BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION
AWARD MODERNISATION

MATTER NO. AM2008/16 – FINANCIAL SERVICES GROUP

1. Further to the direction of the President on 26 February 2009 (Transcript PN2546), Australian Federation of Employers and Industries (AFEI) makes the following response to the submissions of the FSU in respect to part time work.
2. In paragraph 102 of the FSU's written submissions dated 25 February 2009 and at the consultation before the Full Bench of 26 February 2009 (at PN2481) the FSU submitted that the changes sought by AFEI and other employers in respect of clause 10.2(c) of the exposure draft would 'disadvantage many employees contrary to the Request including those covered by the Insurance Industry Award 1998'.
3. AFEI rejects this proposition and refers to paragraphs 9 to 19 of its written submissions filed in February 2009.
4. AFEI further submits that the changes to part-time hours it proposes for the modern award are consistent with the terms of the Insurance Industry Award 1998 (the Insurance Award), as illustrated by both Attachment 2 to AFEI's written submissions (filed in February 2009) and Exhibit Stage2FB 29.

4. Specifically, AFEI refers to clauses 10.4, 18 and 19 of the Insurance Award, which provide for overtime to be paid to a part time employee for work outside the spread of ordinary hours (7am-7pm) and only for excess hours worked 'at the direction of the employer'. To assist the Commission AFEI has attached extracts from these clauses in **Attachment A**. AFEI Submits that there is nothing preventing an employee currently covered by this award working additional hours by mutual agreement (within the span of hours) without the imposition of any overtime penalty.

5. Accordingly, AFEI submits that its proposed amendments to clause 10 of the exposure draft (refer to Attachment 1 to AFEI submission of February 2009) are both consistent with the current provisions of the insurance award and are necessary to maintain the existing safety net. Indeed, contrary to the submissions of the FSU, employees and employers who currently enjoy such mutually beneficial provisions are likely to be disadvantaged if such provisions are not retained in a modern award(s) applying in this industry in the future.

2 March 2008

ATTACHMENT A

EXTRACTS FROM INSURANCE INDUSTRY AWARD 1998 (EMPHASIS ADDED)

CLAUSE 10:

10. PART-TIME EMPLOYMENT

A respondent may employ a person on a part-time basis:

- 10.1 Part-time employee means a person employed to work reasonably predictable hours which are fewer than the standard office hours of the respondent.
- 10.2 Part-time employees must be paid a minimum hourly rate calculated by dividing the appropriate weekly salary by the number of hours worked by full-time employees of the employer each week. The appropriate salary being that determined by the grade into which the part-time employee's job falls.
- 10.3 An employer must roster a regular part-time employee for a minimum of three consecutive hours on any day he or she is required to work.
- 10.4 All time worked by part-time employees outside the spread of hours as prescribed in 18 - Hours of this Award must be paid at overtime rates in accordance with Clause 19 - Overtime of this Award.**
- 10.5 Clause 13 - Termination of Employment of this Award applies to a part-time employee except where the employee is employed for a stipulated period of less than two weeks.

CLAUSE 18:

18. HOURS

- 18.1 Ordinary Hours of Work
 - 18.1.1 The ordinary hours of duty for employees will not exceed 38 hours per week and will be worked between the hours of 7.00 a.m. and 7.00 p.m. Monday to Friday.**
 - 18.1.2 However this spread of hours may be varied by agreement between the employer and the majority of employees in an enterprise or part of an enterprise.

CLAUSE 19:

19. OVERTIME

- 19.1 Overtime need only be paid for if worked by direction of the employer.**
- 19.2 Overtime must be paid for all time worked **at the direction of the employer** in excess of an employee's ordinary hours on any day or outside the spread of hours.**
- 19.3 No overtime need be paid to any employee whose job is graded at grade 6 or above.