



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

AM2008/20

AWARD MODERNISATION

AFEI
Australian Federation of
Employers & Industries

BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

AWARD MODERNISATION

AM 2008/20 – CLEANING SERVICES

TRANSITIONAL PROVISIONS ADDITIONAL AND REPLY SUBMISSIONS

1. AFEI makes this submission in response to the BSCCA/ACCA submission dated 21 July 2009.
2. The BSCCA/ACCA submission at paragraph 3.1 has identified that AFEI's calculation was based on the casual employee's ordinary rate, not the ordinary hourly rate.
3. Using the ordinary hourly rate the table would be as follows:

Mon-Fri	NSW NAPSA	Mod Award	% increase
CSE Level 1	19.45	19.18	-1.39%
CSE Level 2	20.35	19.86	-2.41%
CSE Level 3	21.45	20.98	-2.19%
Saturday	NSW NAPSA	Mod Award	
CSE Level 1	28.31	26.85	-5.16%
CSE Level 2	29.75	27.81	-6.52%
CSE Level 3	31.61	29.37	-7.09%
Sunday	NSW NAPSA	Mod Award	
CSE Level 1	28.31	34.52	21.94%
CSE Level 2	29.75	35.75	20.17%
CSE Level 3	31.61	37.76	19.46%
Holiday	NSW NAPSA	Mod Award	
CSE Level 1	28.31	42.19	49.03%
CSE Level 2	29.75	43.7	46.89%
CSE Level 3	31.61	46.15	46.00%

4. BCCSA/ACCA state that our calculations are inaccurate, firstly on the basis of the modern award rate calculations, and secondly on the basis of the application of the calculation of the penalty rate applying under the NSW NAPSA.
5. Whilst it is true that prior to reform commencement the NSW Cleaning and Building Services Contractors (State) Award had fixed rates of pay applying to weekday and weekend work, there is some ambiguity as to how the weekend rates apply under the NSW NAPSA. We note that the Pay Scale Summaries released by DEEWR provide no assistance in this respect as the weekend penalty would not form part of the pay scale.
6. Further we note that there has been no decision of the commission/court of law dealing with the penalty rates applying under the NSW NAPSA under Work Choices and therefore the method of calculation of the weekend penalties is open to interpretation.
7. The BSCCA/ACCA method is one interpretation of the Act. They argue that the Weekend and Public Holiday rates prescribed in the award prior to reform commencement were fixed and therefore the rates remained constant despite the increases in the basic periodic rate of pay.
8. AFEI's calculations adopt a different approach. We say that it is possible to deduce a weekend penalty loading from the pre-reform rates by unloading the casual rates of pay in Table 3A (i.e. taking out the 1/12th casual loading) and deducing the weekend penalty immediately prior to reform commencement by

comparing the unloaded Mon-Fri rate to the unloaded weekend/public holiday rate. This gives a weekend penalty as a percentage and this is applied to the base rate of pay each time an increase as a result of the AFPC decision was applied to the basic periodic rate of pay and then a casual loading of 8.3333% is applied to that total rate to give the total weekend penalty rate.

9. A comparison of both methods is found below using updated modern award rates with the calculation based on the ordinary hourly rate, not the casual employee's ordinary hourly rate. The outcome demonstrates again that there are significant cost increases for employers who have been under the NSW NAPSA when moving to the modern award using both methods. The outcome in no way detracts from our position that cost increases should be deferred, and not incurred on a phased in basis which results in employers incurring costs at an earlier point in time.
10. It should also be reiterated that event cleaners would perform the majority of work on weekends and public holidays which is where the modern award rate is significantly higher than that currently applying under the NSW NAPSA however calculated.

AFEI METHOD

Mon-Fri	NSW NAPSA	Mod Award	% increase
CSE Level 1	19.45	19.18	-1.39%
CSE Level 2	20.35	19.86	-2.41%
CSE Level 3	21.45	20.98	-2.19%
Saturday	NSW NAPSA	Mod Award	
CSE Level 1	28.31	26.85	-5.16%
CSE Level 2	29.75	27.81	-6.52%
CSE Level 3	31.61	29.37	-7.09%
Sunday	NSW NAPSA	Mod Award	
CSE Level 1	28.31	34.52	21.94%
CSE Level 2	29.75	35.75	20.17%
CSE Level 3	31.61	37.76	19.46%
Holiday	NSW NAPSA	Mod Award	
CSE Level 1	28.31	42.19	49.03%
CSE Level 2	29.75	43.7	46.89%
CSE Level 3	31.61	46.15	46.00%

BSCCA/ACCA METHOD

Mon-Fri	NSW NAPSA	Mod Award	% increase
CSE Level 1	19.45	19.18	-1.39%
CSE Level 2	20.35	19.86	-2.41%
CSE Level 3	21.45	20.98	-2.19%
Saturday	NSW NAPSA	Mod Award	
CSE Level 1	24.95	26.85	7.62%
CSE Level 2	26.27	27.81	5.86%
CSE Level 3	28.36	29.37	3.56%
Sunday	NSW NAPSA	Mod Award	
CSE Level 1	24.95	34.52	38.36%
CSE Level 2	26.27	35.75	36.09%
CSE Level 3	28.36	37.76	33.15%
Holiday	NSW NAPSA	Mod Award	
CSE Level 1	24.95	42.19	69.10%
CSE Level 2	26.27	43.7	66.35%
CSE Level 3	28.36	46.15	62.73%

PRE-REFORM RATES:

Table 3A - Wages - Event Services Stream

The following rates shall take effect on and from the first full pay period to commence on or after 1 July 2005:

<i>Classification</i>	Column A <i>Total Hourly Rate Casual Employee</i> \$
Rate 1	
<i>Monday to Friday</i>	
<i>Event Services Employee Level 1</i>	17.76
<i>Event Services Employee Level 2</i>	18.66
<i>Event Services Employee Level 3</i>	20.05
Rate 2	
<i>Saturday, Sunday and Public Holiday</i>	
<i>Event Services Employee Level 1</i>	24.95
<i>Event Services Employee Level 2</i>	26.27
<i>Event Services Employee Level 3</i>	28.36