

AWARD MODERNISATION SUBMISSIONS AND DRAFT AWARD PROVISIONS

Stage 3 Industries / Occupations

Transitional Provisions



23 October 2009

AWARD MODERNISATION

STAGE 3 INDUSTRIES / OCCUPATIONS

TRANSITIONAL PROVISIONS

1. This submission deals with the transitional provisions for various Stage 3 modern awards in which Ai Group has a substantial interest.
2. With regard to the Stage 3 modern awards, we submit that the Commission should insert the model transitional provisions, including the phasing schedule, unless it is clear that such provisions are not needed due to special circumstances.
3. Even in circumstances where the Commission believes that the model transitional provisions are not needed, Ai Group submits that the Full Bench should generally insert the absorption provision in sub-clause 2.2 of the model provisions. This will prevent employers being exposed to unnecessary cost increases.
4. As stated in the Full Bench's Decision of 2 September 2009:

"[19] We deal first with the issue of absorption. There was a range of views on the issue. Most employer representatives took the view that any increases resulting from a modern award should be capable of absorption into existing overaward payments. The Australian Council of Trade Unions (ACTU) and most unions took a contrary view. They argued that overaward payments should be maintained in all circumstances. Modern awards are concerned with minimum wages and conditions and not with overaward payments. It would not be appropriate, even on a transitional basis, to require an employer to maintain overaward payments. We have decided to provide for absorption."

Airline Operations

5. The model transitional provisions, including the phasing schedule, should be inserted into the following awards:
 - *Air Pilots Award 2010*
 - *Aircraft Cabin Crew Award 2010*
 - *Airline Operations – Ground Staff Award 2010*
6. Each of these modern awards replace existing federal awards and NAPSAAs which contain provisions that differ from the modern award.

Aluminium Industry

7. Ai Group notes that the “Aluminium Industry Parties” are not seeking to include the model or any other transitional clauses in the *Aluminium Industry Award, 2010*.
8. The development of this award was somewhat unique due to the fact that the industry is dominated by enterprise awards rather than any industry or parent federal award or NAPSA.
9. Accordingly, there would seem little need to incorporate transitional provisions.

Cement and Concrete Products (including Asphalt and Bitumen)

10. The model transitional provisions, including the phasing schedule, should be inserted into the following awards:
 - *Premixed Concrete Award 2010*

- *Cement and Lime Award 2010*
- *Asphalt Industry Award 2010*
- *Concrete Products Award 2010*

11. The federal awards and NAPSAs, which the modern award replaces, contain different provisions to the modern award and the transitional provisions will reduce the impact upon employers and employees.

Commercial Sales

12. It is very important that the model transitional provisions, including the phasing schedule, be included in the *Commercial Sales Award 2010*. Some employers are facing significant cost increases when this modern award comes into operation.

Electrical Power Industry

13. The model transitional provisions, including the phasing schedule, should be included in the *Electrical Power Award 2010*.

14. Some employers are likely to experience large cost increases under this modern award, eg. some “embedded contractors”.

Food and Beverage Industries

15. The model transitional provisions, including the phasing schedule, need to be inserted into the following food and beverage industry awards:

- *Food, Beverage and Tobacco Manufacturing Award 2010*
- *Meat Industry Award 2010*
- *Poultry Processing Award 2010*

- *Seafood Processing Award 2010*
- *Wine Industry Award 2010*

16. A large number of existing federal awards and NAPSAs will be replaced with these modern awards and many of the existing instruments have different wage rates, penalties and loadings.

Gas Industry

17. The model transitional provisions and phasing schedule should be inserted into the *Gas Industry Award 2010*. In its decision of 4 September 2010, the Commission expressed doubts about the appropriateness of some of the conditions in the modern award and indicated that further consideration would be given to the award during forthcoming reviews. The transitional provisions will reduce any negative impacts upon employers or employees in the meantime.

Pharmaceutical Industry

18. The *Pharmaceutical Industry Award 2010* will replace a number of existing awards and NAPSAs which contain different provisions to the modern award.

19. The model transitional provisions, including the phasing schedule, should be inserted.

Scientific and Technical Services

20. The model transitional provisions, including the phasing schedule, should be included in the following awards:

- *Architects Award 2010*

- *Hydrocarbons Field Geologists Award 2010*
- *Surveying Award 2010*
- *Professional Employees Award 2010*

21. Each of these modern awards replace existing federal awards and NAPSAs with provisions which differ from those in the modern awards.

Storage Services

22. The *Storage Services and Wholesale Award 2010* contains relatively generous conditions, compared to some of the awards and NAPSAs that it will replace.

23. In order to alleviate the cost impacts upon employers, the model transitional provisions, including the phasing schedule, should be included in the modern award.

Timber Industry

24. The *Timber Industry Award 2010* has a very broad coverage and contains relatively generous conditions.

25. The award covers harvesting and forestry management, milling and processing, panel products, manufacturing of timber product, merchandising and retailing, and pulp and paper.

26. It is important that the model transitional provisions, including the phasing schedule, be included in this award.

Vehicle Industry

27. The *Vehicle Manufacturing, Repair, Services and Retail Award 2010* replaces a substantial number of awards and NAPSAs and some employers are facing cost increases (eg. a large increase in the casual loading).
28. Accordingly, it is important that the model transitional provisions, including the phasing schedule, be included in this award.