

# **RESIDUAL CHANGES IN MODERN AWARDS**

## **SUBMISSION OF THE AUSTRALIAN INDUSTRY GROUP**



**5 February 2010**

# RESIDUAL CHANGES IN MODERN AWARDS

## Introduction

In its Statement of 21 December 2009, the Full Bench clarified a number of aspects relating to residual variations to modern awards:

*“[3] We indicate that the residual variations will deal with necessary changes in terminology and statutory references, typographical and formatting issues and changes in standard or model provisions. For example:*

- the transitional provisions in the priority and Stage 2 modern awards will be varied to include later changes in the model provisions;*
- the priority, Stage 2 and Stage 3 awards will be varied to include the national training wage and labour hire/group training provisions decided upon in the Stage 4 decision; and*
- the priority awards will be varied to include the model supported wage and model school-based apprentices provisions decided upon after the priority modern awards were made.”*

The task of analysing the residual variations for modern awards has not proved to be an easy one for Ai Group, given the absence of any central list of what exposure drafts had been released and the absence of a dedicated section of the AIRC’s website for matters relating to residual variations.

The residual variations are particularly important because of the inclusion of clauses in nearly all modern awards dealing with on-hire and group training employees. The on-hire industry is a major sector of Ai Group’s membership and we operate a wholly owned registered Group Training Organisation - Ai Group Training Services – which employs nearly 700 apprentices and trainees who are placed with host employers.

On-hire employers who are members of Ai Group operate in nearly all industries covered by modern awards. Accordingly, we have an interest in the on-hire clauses in all modern industry and occupational awards.

In the sections which follow, Ai Group's views on the draft residual variations for particular modern awards are set out, based on the analysis that we have carried out to date. In the event that any further issues are identified we will bring these to the attention of Fair Work Australia.

All 122 modern awards are referred to below.

**(1) Aboriginal Community Controlled Health Services Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(2) Aged Care Award 2010**

It appears that draft residual variations have not yet been issued for this award.

**(3) Air Pilots Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(4) Aircraft Cabin Crew Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

## (5) Airline Operations Ground Staff Award 2010

It appears that draft residual variations have not yet been issued for this award.

## (6) Airport Employees Award 2010

The draft award incorporates the model on-hire and group training clauses.

The award only applies to “employers throughout Australia that operate airports”. Some amendments need to be made to the on-hire and group training clauses to ensure that only on-hire employees supplied to employers who operate airports and only group apprentices and trainees placed with employers who operate airports are covered by this award. It is not appropriate that all labour hire employees who work at airports be covered under this award, and the existing draft wording is not sufficiently clear.

Ai Group submits that the following amendments need to be made to clauses 4.5 and 4.6:

**“4.5** *This award covers any employer which supplies labour on an on-hire basis to an employer that operates airports in the industry set out in clause 4.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.*

**4.6** *This award covers employers which provide group training services for apprentices and trainees engaged by employers that operates airports in the industry set out in clause 4.1 in the industry and/or parts of industry set out at clause 4.1 and those apprentices and trainees engaged by a group training service hosted by an employer that*

*operates airports a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.”*

**(7) Alpine Resorts Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(8) Aluminium Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(9) Ambulance and Patient Transport Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(10) Amusement, Events and Recreation Award 2010**

The draft residual variations relating to on-hire employment and group training contain apparent typographic errors. Ai Group submits that the following amendments need to be made:

- 4.4** *This award covers any employer which supplies labour on an on-hire basis in the industry set out in **clause 4.1** ~~Definition of amusement, events and recreation industry~~ in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in that industry. This subclause operates subject to the exclusions from coverage in this award.*

**4.5** *This award covers employers which provide group training services for apprentices and trainees engaged in the industry and/or parts of industry set out at **clause 4.1** ~~Definition of amusement, events and recreation industry~~ and those apprentices and trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.*

**(11) Animal Care and Veterinary Services Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(12) Aquaculture Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(13) Architects Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(14) Asphalt Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

## **(15) Banking, Finance and Insurance Award 2010**

It appears that draft residual variations have not yet been issued for this award.

However, there appears to be a drafting error which has arisen as a result of the variations to this award made on 24 December 2009 concerning the provisions for call centre workers.

In its Decision, the Commission decided to delete Subclause 22.2 – Overtime and Penalty Rates – Call Centres. However, no variation was made to the title of clause 22.1 which is headed “Other than Call Centres”, and none was sought by the FSU. This is causing significant confusion for employers.

If the heading is interpreted to limit the coverage of subclause 22.1 to employees who do not work in call centres, the result is that the award does not provide overtime and penalty rates for call centre workers. Alternatively, the heading could be interpreted as suggesting that call centre workers in the industry are no longer covered by the award at all.

It appears that the intention of the AIRC is that the overtime and penalty rates in subclause 22.1 were intended to apply to all employees covered by the award, including call centre workers. If this is the case, the heading of subclause 22.1 should be deleted.

## **(16) Black Coal Mining Industry Award 2010**

It appears that draft residual variations have not yet been issued for this award.

**(17) Book Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(18) Broadcasting and Recorded Entertainment Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

**(19) Building and Construction General On-site Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(20) Business Equipment Award 2010**

It appears that draft residual variations have not yet been issued for this award.

**(21) Car Parking Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(22) Cement and Lime Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(23) Cemetery Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(24) Children's Services Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(25) Cleaning Services Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(26) Clerks – Private Sector Award 2010**

It appears that draft residual variations have not yet been released by FWA for this award.

Ai Group submits that the following apparent typographical error, which is causing substantial confusion within industry, needs to be addressed as a residual variation without delay

Subclause 25.1 provides that the spread of ordinary hours for day workers is from 7.00am to **7.00pm** Monday to Friday and from 7.00am to 12.30pm on Saturday. However, subclause 28.1 defines an afternoon shift as a shift which finishes **after 6.00pm**. We submit that the reference to "after 6.00pm" in subclause 28.1 must be an error and that it should be changed to "after 7.00pm". If this is not done then a day worker who works until 6.30pm or 7.00pm (as permitted by subclause 25.1) would be deemed to be an afternoon shift worker and entitled to an afternoon shift loading.

## (27) Coal Export Terminals Award 2010

The draft award incorporates the model on-hire and group training clauses.

The award only applies to “employers who operate coal export terminals”. Some amendments need to be made to the on-hire and group training clauses to ensure that only on-hire employees supplied to employers who operate coal export terminals and only group apprentices and trainees placed with employers who operate coal export terminals are covered by this award. It is not appropriate that all on-hire employees who work at coal export terminals be covered under this award (eg. if the on-hire employee is working for a contractor covered by another award then the other award should apply to the on-hire employee).

Ai Group submits that the following amendments need to be made to clauses 4.7 and 4.8:

*“4.7 This award covers any employer which supplies labour on an on-hire basis to an employer **who operates a coal export terminal** ~~in the industry set out in clause 4.1~~ in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work **for an employer who operates airports** ~~for a business in that industry~~. This subclause operates subject to the exclusions from coverage in this award.*

*4.8 This award covers employers which provide group training services for apprentices and trainees ~~engaged~~ **hosted by employers who operate coal export terminals** ~~in the industry set out in clause 4.1 in the industry and/or parts of industry set out at clause 4.1~~ and those apprentices and trainees engaged by a group training service hosted by **an employer who operates a coal export terminal** ~~a company~~ to perform work at a location where the activities described herein are being performed. This*

*subclause operates subject to the exclusions from coverage in this award.”*

**(28) Commercial Sales Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(29) Concrete Products Award 2010**

There is a drafting error in the first sentence of 25.9(b). It appears to Ai Group that this sentence would be logically worded as follows (based upon subclause 37.5 of the Manufacturing Modern Award, which has similar shift provisions, and based on the penalties in the Concrete Products Modern Award):

*“(b) Shiftworkers on other than continuous work for all time worked on a Sunday ~~or a public holiday~~ will be paid at the ~~rates~~ rate of double time and for all time worked on a public holiday they must be paid at double time and a half.”*

Ai Group has not identified any problems with any of the other draft residual variations.

**(30) Contract Call Centres Award 2010**

It appears that draft residual variations have not been issued for this award.

**(31) Corrections and Detention (Private Sector) Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(32) Cotton Ginning Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(33) Dredging Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(34) Dry Cleaning and Laundry Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(35) Educational Services (Post-Secondary Education) Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them, with one exception. The cross-reference in clause 4.8 should be clause 4.1. (The cross-reference was missing in the exposure draft viewed by Ai Group).

**(36) Educational Services (Schools) General Staff Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(37) Educational Services (Teachers) Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(38) Electrical, Electronic and Communications Contracting Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(39) Electrical Power Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(40) Fast Food Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(41) Fire Fighting Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(42) Fitness Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(43) Food, Beverage and Tobacco Manufacturing Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(44) Funeral Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(45) Gardening and Landscaping Services Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(46) Gas Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(47) General Retail Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(48) Graphic Arts, Printing and Publishing Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(49) Hair and Beauty Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(50) Health Professionals and Support Services Award 2010**

It appears that draft residual variations have not yet been issued for this award.

**(51) Higher Education Industry – Academic Staff – Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(52) Higher Education Industry – General Staff – Award 2010**

It appears that draft residual variations have not yet been issued for this award.

**(53) Horse and Greyhound Training Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

**(54) Horticulture Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(55) Hospitality Industry (General) Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

## **(56) Hydrocarbons Field Geologists Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

## **(57) Hydrocarbons Industry (Upstream) Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

## **(58) Joinery and Building Trades Award 2010**

The schedules in the exposure draft are numbered from Schedule B at the back of the award, even though the Table of Contents indicates that the schedules are numbered from Schedule A. (For example, the Transitional Provisions are Schedule B at the back of the award but Schedule A in the Table of Contents. Schedule A is correct).

### **On-hire employment**

In its Stage 4 decision, the Full Bench decided to insert the following clause in the Joinery Modern Award (See Schedule C to the Stage 4 decision. Note: The clause numbering has been changed):

#### **Insert in definitions clause:**

*“**on-hire** means the on-hire of employees by their employer to a client, where such employees work under the general guidance and instruction of the client or a representative of the client.”*

**Insert in coverage clause:**

- “4.5(a)** *This award covers any employer which supplies labour on an on-hire basis in the industries set out in sub-clause 4.4(a) in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in those industries.*
- (b)** *This award covers any employer which supplies on-hire employees in occupations set out in sub-clause 4.4(b) covered by classifications in this award and those on-hire employees, if the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee.*
- (c)** *This sub-clause operates subject to the exclusions from coverage in this award*

**Group training**

Ai Group submits that the following clause should be inserted as subclause 4.6, based on the model clause in the Stage 4 decision:

- “4.6** *This award covers employers which provide group training services for apprentices and/or trainees engaged in the industries, parts of industry and/or occupations set out at subclause 4.1 and those apprentices and/or trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This sub-clause operates subject to the exclusions from coverage in this award.”*

**(59) Journalists Published Media Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(60) Labour Market Assistance Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(61) Legal Services Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(62) Live Performance Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

**(63) Local Government Industry Award 2010**

Ai Group and the Local Government and Shires Association (LGSA) have reached agreement on amended on-hire and group training provisions for this award in relation to LGSA's application in AM2009/182. Vice President Lawler has assisted the parties and we understand that his Honour is reporting the terms of the agreed position to the Full Bench.

**(64) Mannequins and Models Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

## **(65) Manufacturing and Associated Industries and Occupations Award 2010**

Ai Group supports the draft residual variations released by FWA.

There are a number of additional residual variations which are needed, as set out below.

### **On-hire employment**

In its Stage 4 decision, the Full Bench decided to insert the following clause in the Manufacturing Modern Award (See Schedule C to the Stage 4 decision. Note: The clause numbering has been changed):

#### **Insert in definitions clause:**

*“on-hire means the on-hire of employees by their employer to a client, where such employees work under the general guidance and instruction of the client or a representative of the client.”*

#### **Insert in coverage clause:**

**4.8 (a)** *This award covers any employer which supplies labour on an on-hire basis in the industries set out in sub-clause 4.5(a) or (b) in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a business in those industries.*

**(b)** *This award covers any employer which supplies on-hire employees in occupations set out in sub-clause 4.5(c) covered by classifications in this award and those on-hire employees, if the employer is not covered by another modern award containing*

*a classification which is more appropriate to the work performed by the employee.*

*(c) This sub-clause operates subject to the exclusions from coverage in this award.*

## **Group training**

Ai Group submits that the following clause should be inserted as subclause 4.9, based on the model clause in the Stage 4 decision:

**4.9** *This award covers employers which provide group training services for apprentices and/or trainees engaged in the industries, parts of industry and/or occupations set out at subclause 4.1 and those apprentices and/or trainees engaged by a group training service hosted by a company to perform work at a location where the activities described herein are being performed. This sub-clause operates subject to the exclusions from coverage in this award.*

The AMWU has applied to vary the Modern Manufacturing Award (AM2009/175). The following aspects of the variation are agreed between Ai Group and the Metal Trades Federation of Unions, and these aspects are appropriately addressed via residual variations:

- Item 6, paragraph 8.4(c)(i) – insertion of some missing cross-references;
- Item 12, paragraph 36.5(e)(iii) – correction of cross-references;
- Item 13, subclause 41.2 – correction of cross-reference;
- Item 14, subclause 41.3(a) – correction of cross-reference;
- Item 15, subclause 41.4(a) – correction of cross-reference;
- Item 16, subclause 41.6 – correction of cross-reference;

- Item 17, subclause 41.8 – correction of cross-reference.

Items 1 and 3 in the AMWU's application have been addressed by the draft residual variations released by FWA.

Also, the modern award needs to be varied to reflect the AIRC's decision of 31 December 2009 regarding floor covering and finishing work ([2009] AIRCFB 988). An order had not yet been issued arising from this decision.

### **(66) Market and Social Research Award 2010**

It appears that draft residual variations have not yet been issued for this award.

### **(67) Marine Tourism and Charter Vessels Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

### **(68) Marine Towage Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

### **(69) Maritime Offshore Oil and Gas Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(70) Meat Industry Award 2010**

It appears that draft residual variations have not yet been issued for this award.

**(71) Medical Practitioners Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(72) Mining Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(73) Miscellaneous Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(74) Mobile Crane Hiring Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(75) Nursery Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

**(76) Nurses Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(77) Oil Refining and Manufacturing Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(78) Passenger Vehicle Transportation Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

**(79) Pastoral Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

**(80) Pest Control Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(81) Pharmaceutical Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

## **(82) Pharmacy Industry Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

## **(83) Plumbing and Fire Sprinklers Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

## **(84) Port Authorities Award 2010**

The draft award incorporates the model on-hire and group training clauses.

The award only applies to *“employers throughout Australia who are port operators”*. Some amendments need to be made to the on-hire and group training clauses to ensure that only on-hire employees supplied to port operators and only group apprentices and trainees placed with port operators are covered by this award. It is not appropriate that all on-hire employees who work at ports be covered under this award (eg. if the on-hire employee is working for a contractor covered by another award then the other award should apply to the on-hire employee).

Ai Group submits that the following amendments need to be made to clauses 4.6 and 4.7:

**“4.6** *This award covers any employer which supplies labour on an on-hire basis to a port operator in the industry set out in clause 4.1 in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a port operator business in that industry. This subclause operates subject to the exclusions from coverage in this award.*

**4.7** *This award covers employers which provide group training services for apprentices and trainees ~~engaged~~ hosted by port operators in the industry set out in clause 4.1 in the industry and/or parts of industry set out at clause 4.1 and those apprentices and trainees engaged by a group training service hosted by a port operator a company to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award."*

**(85) Ports, Harbours and Enclosed Water Vessels Award 2010**

It appears that draft residual variations have not yet been issued for this award.

**(86) Poultry Processing Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(87) Premixed Concrete Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(88) Professional Diving Industry (Industrial) Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

## **(89) Professional Diving Industry (Recreational) Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

## **(90) Professional Employees Award 2010**

Ai Group has had discussions with the Association of Professional Engineers, Scientists and Managers Australia (APESMA) and both Ai Group and APESMA agree that clauses 4.8 and 4.9, as currently drafted, are not appropriate.

The draft clauses which have been inserted are consistent with the model clauses. However, because the coverage of the *Professional Employees Award 2010* is somewhat unique, the on-hire provisions of this award will require some modification from the model clauses.

If draft clauses 4.8 and 4.9 are not changed, the result will be that coverage of on-hire employment will be wider than the general coverage of the modern award. Ai Group opposes this on the grounds that:

- It is contrary to the approach to on-hire employment determined by the AIRC in its Decision of 4 December 2009; and
- It would extend award coverage to employees who have not traditionally been award-covered.

The *Professional Employees Award 2010* covers employees engaged as professional engineers and scientists on an occupational basis, and further covers employees engaged as information technology, telecommunications and quality auditing professionals, but **only if** those employees are employed by an employer **who is principally engaged** in the information technology, telecommunications or quality auditing industries, as defined in the award.

Draft clause 4.8 covers an employer who supplies labour on an on-hire basis in the industries set out in clauses 4.1 and 4.2. The reference to clause 4.1, we respectfully submit, is erroneous. Clause 4.1 does not refer to a particular industry of an employer, but rather employees performing professional engineering and professional scientific duties, on an occupational basis, and as recognised by the award's classification structure. The reference in clause 4.8 to "industries" will create significant confusion insofar as it relates to the coverage of professional engineers and professional scientists.

Under draft clause 4.9, on-hire employees in the classifications contained in the modern award will be covered by the modern award, regardless of the industry of the client. This is not in keeping with the general coverage of the modern award, where (with the exception of professional engineers and professional scientists) the award only covers employers **principally engaged** in the information technology industry, the quality auditing industry or the telecommunications services industry and their employees.

Ai Group and APESMA have reached agreement on the following clauses for the Award:

**4.8** *This award covers any employer which supplies on-hire employees performing professional engineering and professional scientific duties who are covered by the classifications in Schedule B—Classification Structure and Definitions of the award and those on-hire employees, if the employer is not covered by another modern award containing a classification which is more appropriate to the work performed by the employee. This sub-clause operates subject to the exclusions from coverage in this award.*

**4.9** *This award covers any employer which supplies labour on an on-hire basis to an employer principally engaged in the industries set out in clause 4.2, in respect of on-hire employees in classifications covered by*

*this award, and those on-hire employees, while engaged in the performance of work for a business principally engaged in those industries. This subclause operates subject to the exclusions from coverage in this award.”*

#### **(91) Quarrying Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

#### **(92) Racing Clubs Events Award 2010**

Ai Group’s interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

#### **(93) Racing Industry Ground Maintenance Award 2010**

Ai Group’s interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

#### **(94) Rail Industry Award 2010**

The draft award incorporates the model on-hire and group training clauses.

The award only applies to *“employers throughout Australia who are rail transport operators”*. Other awards, such as the *Manufacturing and Associated Industries and Occupations Award 2010* have substantial coverage in the rail industry, including coverage of many on-hire employees and group apprentices in the industry. Some amendments need to be made to the on-hire and group training clauses to ensure

that only on-hire employees supplied to rail transport operators and only group apprentices and trainees placed with rail transport operators are covered by this award. It is not appropriate that all on-hire employees who work in the rail industry be covered under this award (eg. if the on-hire employee is working for a contractor covered by another award then the other award should apply to the on-hire employee).

Ai Group submits that the following amendments need to be made to clauses 4.4 and 4.5:

***“4.4** This award covers any employer which supplies labour on an on-hire basis ~~to a Rail Transport Operator in the industry set out in clause 4.1 in~~ respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for ~~a Rail Transport Operator a business in that industry.~~ This subclause operates subject to the exclusions from coverage in this award.*

***4.5** This award covers employers which provide group training services for apprentices and trainees ~~engaged hosted by Rail Transport Operators in the industry set out in clause 4.1 in the industry and/or parts of industry set out at clause 4.1~~ and those apprentices and trainees engaged by a group training service hosted by ~~a Rail Transport Operator a company~~ to perform work at a location where the activities described herein are being performed. This subclause operates subject to the exclusions from coverage in this award.”*

## **(95) Real Estate Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(96) Registered and Licensed Clubs Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(97) Restaurant Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(98) Road Transport and Distribution Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(99) Road Transport (Long Distance Operations) Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(100) Salt Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(101) Seafood Processing Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

### **(102) Seagoing Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

### **(103) Security Services Industry Award 2010**

It appears that draft residual variations have not yet been issued for this award.

### **(104) Silviculture Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

### **(105) Social, Community, Home Care and Disability Services Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

### **(106) Sporting Organisations Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

### **(107) State Government Agencies Administration Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(108) Stevedoring Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(109) Storage Services and Wholesale Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(110) Supported Employment Services Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(111) Sugar Industry Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.

**(112) Surveying Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(113) Telecommunications Services Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(114) Textile, Clothing, Footwear and Associated Industries Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(115) Timber Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(116) Transport (Cash in Transit) Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(117) Travelling Shows Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(118) Vehicle Manufacturing, Repair, Services and Retail Award 2010**

Ai Group opposes the inclusion of the reference to *“Employee not elsewhere prescribed”* in Schedule B of the Award. The inclusion of this reference creates significant uncertainty and could have the effect of substantially expanding the coverage of the award to include occupations and types of work that are not intended to be covered.

**(119) Waste Management Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(120) Water Industry Award 2010**

This is a Stage 4 award and it appears that no draft residual variations will be issued.

**(121) Wine Industry Award 2010**

Ai Group has reviewed the draft residual variations and has not identified any problems with them.

**(122) Wool Storage, Sampling and Testing Award 2010**

Ai Group's interest in this award relates primarily to on-hire employment and group training. Ai Group supports the on-hire and group training provisions in the exposure draft.