

COLLECTIVE INDUSTRIAL/MAINTAINING THE AWARD SAFETY NET

Review of Modern Awards

Architects Award

A decision has now been handed down by the Fair Work Commission dealing with the substantive issues in respect of the Architects Award.

The main variations that will be made are as set out as follows;

- Introduction of new classification of a new classification of “Bachelor’s Degree with a pathway to as Master of Architecture”. This is an updating of the Award to reflect the situation where persons may cease study prior to completing a Master’s Degree and there was no rate of pay in the Award. Previously only a Bachelor qualification was required. The new classification will contain 3 pay points cutting out at 95% of the Graduate Entry (Masters) rate.
- Progression from Graduate Architect to Registered Architect – currently progression through the pay points is based on competency standards approved by the Architects Accreditation Council. These have changed and the Award will be varied to include the new competencies.
- Time Off in Lieu of Overtime – There has been a dispute as to whether time off in lieu is to be taken on an “hour for hour” basis or at time and a half. The Commission has supported the Association’s submission that the penalty rate is to apply.
- The Association of Consulting Architects (ACA) proposed that for employees on probation or employed by small business (less than 15) that the notice for termination of employment be reduced from 1 month to 1 week for probationary employees and 1 week for employees of small business with up to 12 months service. This application was successfully opposed by the Association.
- Equipment and Special Clothing – An updated clause to reflect, amongst other things, the significant use of information technology was approved by the Commission in place of the existing antiquated clause.

It is expected that the form of the award variations will be approved shortly.

Professional Employees Award

As previously reported the grossly inadequate Hours of Work provision in the Professional Employees Award (PEA) is the subject of an Application to Vary by the Association. To put it simply the existing

provides no definite entitlement for the working of additional hours and is therefore simply unenforceable.

In its decisions on Annualised Salaries the Commission has shown a preparedness to improve minimum standards in this area and as most of the Association's members in the private sector are paid an annual salary these developments are of relevance.

Following prolonged negotiations agreement has been reached with the Ai Group on a new improved clause which improves the rights of employees at Levels 1 and 2.

In summary the improvements will;

- Provide a definition of the cycle of hours over which the 38 hour week may be averaged.
- A definition of the range of options available for compensating additional hours.
- Provide that the method of compensation being used for additional hours be identified.
- Provide that where an annual salary is paid there must be a reconciliation to ensure that all hours required to be worked have been paid.
- That where time off in lieu is granted it must be done on a minimum of an *"hour for hour"* basis.
- The employer must keep a record of hours worked by an employee and a copy of this record will need to be made available to the employer upon request.

Compared to most enterprise agreements and various public sector arrangements this provision is hardly *"revolutionary"* but in the context of the non-government sector it will, if accepted by the Fair Work Commission, be the most significant improvement in the Hours of Work clause in this Award since such a provision was first inserted into the Professional Scientists Award 1981.

The next step will be a hearing before the Fair Work Commission headed by the President Justice Ross on 13th December 2019. In this regard the Commission will need to be satisfied as to the merits of the case and whether the proposed variation satisfies what is known as the Modern Awards Objective. This is not a foregone conclusion. However, our cause is assisted by the employers indicating that they will not oppose the proposed variations.

If the Association's application is successful it will represent an important first step but only one part of the broader Hours of Work issues faced by our members.

In the preparation of the Association's submissions it is important to acknowledge the assistance from Surveys Manager Alex Crowther in the conduct and analysis of the Hours of Work Survey conducted late last year. This survey was the first serious attempt to document the problems faced, particularly by junior professionals, and is very important evidence. Not the least the survey results showed that when

an employee has to be paid for working additional hours employers tend to be less cavalier about requiring them to do so.

Other proposed variations to the PEA include the updating of the qualifications schedule for Professional Scientists and IT&T Professionals. Coverage under the PEA is directly linked to the possession of qualifications and the need to use those qualifications for any portion of professional duties.

National Legal & Industrial Staffing

Stratos Pavlis has moved into to a new role of Senior Industrial and Development. This composite in addition to its industrial component will also involve a training role. One project that Stratos is involved in along with Jacki Baulch is a project training field staff in various industrial matters.

With the transfer of Stratos into his new role Saraswathy Varatharajullu is now the WAS Coordinator.

Kathy Choi a member of the WAS Team as National Industrial Officer (Workplace Advice & Support) has left to take up a new role. Her contribution including her time as Legal and Industrial Support Officer was invaluable. Kathy has been replaced by Nazia Farhat who has also worked with the WAS Team has a Legal and Industrial Support Officer.

In addition, 2 members of the WAS Team Sophie Vassallo and Phoebe Kelly have recently been admitted to practice.