

## Section 7 7. Casual loadings and piece work rates

### 7.1. Casual loadings

A number of submissions outline the prevalence of casual employment among low-paid workers, but few discuss possible adjustments to casual rates in Australian Pay and Classification Scales (Pay Scales).

Of the submissions that address casual rates, most support the Australian Fair Pay Commission's (Commission) past approach to casual rates:

'ACCI supports the AFPC maintaining the approach of 2006 and 2007 in regard to casual loadings...The AFPC is no longer going to review pay scale rationalisation. Casual loadings in modern awards are now an issue for the award modernisation process during 2008 and 2009... On this basis the AFPC should not consider any changes to the default casual loading in the current *Workplace Relations Act 1996*.<sup>181</sup>

'The ACTU supports an approach that does not disadvantage casual employees.<sup>182</sup>

Restaurant and Catering Australia submit that there should be a reduction in the casual default loading percentage:

In the terms of the Australian Fair Pay and Conditions Standard (and the proposed National Employment Standards) the leave for which the casual rate is compensating is annual leave, personal/carers leave and compassionate leave. Taken at their maximum this leave accounts for just on 13% of the hours worked in a year. Restaurant & Catering Australia asks the Australian Fair Pay Commission to consider revising the casual loading down to this figure and to make clear the basis on which the casual loading is set, noting the non-discretionary nature of the loading.<sup>183</sup>

The Commission notes that the increase provided for in its general Wage-Setting Decision 2008 flows on to casual employees through adjustments to the basic periodic rates of pay (or as otherwise specified where Pay Scales provide for different methods of compensating casual employees).

As a result of the passage of the *Workplace Relations Amendment (Transition to Forward with Fairness) Act 2008*, the Commission can no longer adjust the default casual loading percentage of 20 per cent for employees covered by the standard Federal Minimum Wage (FMW), or special FMWs, or workplace agreements.

The Commission can adjust casual loadings in Pay Scales. However, it considers that approach would overlap with the award modernisation process to be carried out by the Australian Industrial Relations Commission. Therefore, the Commission will not adjust casual loadings expressed as a percentage contained in preserved Pay Scales.

Where preserved Pay Scales provide a flat dollar amount for casual employees, these rates will be increased to give effect to the 2008 general wage increase.

<sup>181</sup> ACCI, *2008 Minimum Wage Review: ACCI Submission*, March 2008, pp. 26-27, paras. 1.123, 1.126 and 1.127.

<sup>182</sup> ACTU, *Australian Council of Trade Unions Submission to the Australian Fair Pay Commission*, March 2008, p. 13.

<sup>183</sup> Restaurant & Catering Australia, *Australian Fair Pay Commission Submission – R&CA 2008*, 2008, p. 16.

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### 7.2. Piece rates

The Commission has power under the *Workplace Relations Act 1996* to adjust basic piece rates of pay. In its general Wage-Setting Decision 2006, the Commission recognised the difficulty that flowing on increases for piece rates raises in particular industries.

In its previous general Wage-Setting Decisions, the Commission decided that, due to the diversity within piece rate Pay Scales, an affected person or business could make a submission on the grounds that such an adjustment would result in an anomalous outcome, inconsistent with the intention to flow on the general increase to piece rate workers. The Australian Council of Trade Unions (ACTU):

...continues to advocate a cautious approach to the adjustment of piece work rates. The ACTU view is that piece rates should be adjusted as they would have been adjusted had the 26 March 2006 reforms not commenced.<sup>184</sup>

The Australian Chamber of Commerce and Industry (ACCI) submits that notwithstanding the December 2007 announcement that new Pay Scales will not be made, in respect of piece rate workers the Commission should maintain the capacity for:

...an affected person or business [to] make a submission to the Commission on the grounds that such an adjustment would result in an anomalous outcome inconsistent with the Commission's intention to flow on the general increase to piece rate workers... Further, where appropriate, such submissions should be acted upon, and rates duly adjusted.<sup>185</sup>

The Commission will flow on its general Wage-Setting Decision 2008 to basic piece rate Pay Scales through applying a 4.15 per cent increase to basic piece rates in preserved Pay Scales which are not otherwise increased as a result of the general decision.

An affected person or business may make a submission to the Commission on the grounds that such an adjustment would result in an anomalous outcome.

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<sup>184</sup> ACTU, 2008, p. 138, para. 12.14.

<sup>185</sup> ACCI, 2008, p. 27, paras. 1.128-1.129. ACCI cites AFPC, *Wage-Setting Decision and Reasons for Decision*, Commonwealth of Australia, July 2007, p. 98.