



Re (Modern) Pastoral Award 2010 - \$0.74 / km rate for “Vehicle Allowance” has come into operation from 1 January 2010

Summary

Contrary to previous correspondence, it has come to pass that the **Vehicle allowance (all employees)** has changed from \$0.32 to \$0.74 per km as at 1 January 2010.

Details

As a result of the *Transitional Provisions* that were passed in relation to the **Pastoral Award 2010**, you were previously informed that all increases to ‘rates of pay’, were being held over until 1 July 2010. It was broadly understood that the intention of the *Transitional Provisions* were to include all instruments of pay including ‘*any applicable industry allowances*’ so that the industry had reasonable time to adjust to the additional financial costs of changes arising from the implementation of the new (Modern) Award. That said, in the AWU’s February newsletter to its members, the AWU stated that ‘Special Allowances’ (“*Sleeping Quarters not provided*” and “*Daily Travel from home to Shed*”) were not included under the *Transitional Provisions* and therefore should be paid from 1 January 2010.

The interpretation that the “Special Allowances” in the Award are not included as part of the *Transitional Provisions* (Section A2.2(c) “*any applicable industry allowance*”) is where the confusion and contention lies. The SCAA has sought legal advice on the issue and the conclusion was that “unfortunately” the AWU’s claim that the “Vehicle Allowance” came into effect on the 1 January, is more than likely “correct”.

Some background as to why these Allowances have come into effect unlike the many other Allowances that make up the **Pastoral Award 2010**, is the fact that the “Travel Allowance” is more of a ‘*reimbursable*’ type Allowance rather than part of an employees ‘*wage*’. To assist with understanding these differences, the Australian Industrial Relations Commission (AIRC) released ‘notes’ on what they believed should be included in the *Transitional Provisions* and what would be excluded.

Is it definite?

Unfortunately the current Industrial Relations process does not allow the SCAA to ask the AIRC for a ruling on the issue. To obtain a definitive answer on the matter, an employer would need to have a case run against them (for paying the ‘old rate of \$0.32/km). There would be strong legal arguments as to why the “Travel Allowance” should not come into effect until 1 July (as all Transitional increases are subject to), however if the employer lost the case, they would be liable for back pay and legal costs which would run into tens-of-thousands of dollars. The upside to winning the case is that the increase in Traveling of \$0.42 (\$0.74 less \$0.32) would then need to be phased in at 20% of the increase per year for 5 years (\$0.08/km). Even though all employers would have the benefit of the cost saving for the next 5 years, what individual employer is going to take the risk?

Going forward

The best way forward in the short term is to factor the increased cost into future work where individual workers vehicles are required for transport. Long term and obviously only where practical, the (re)use of onsite accommodation and cooks is going to be a more viable alternative that will need to be considered.

Jason Letchford
Secretary