



7 September 2015

Our Ref: 20140517

Your Ref: AM2014/196, AM2014/197, AM2014/285

BY EMAIL amod@fwc.gov.au

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Dear Associate,

4 YEARLY REVIEW OF MODERN AWARDS: CASUAL EMPLOYMENT AND PART-TIME EMPLOYMENT (AM2014/196 AND AM2014/197); SOCIAL, COMMUNITY, HOME CARE AND DISABILITY SERVICES INDUSTRY AWARD 2010 (AM2014/285)

We act for Australian Business Industrial (ABI) and the New South Wales Business Chamber (NSWBC) in the above matters.

On 2 March 2015, we wrote to the Commission outlining a number of claims our clients intend to pursue in the 4 Yearly Review of the *Social, Community, Home Care and Disability Services Industry Award 2010 (SCHCDSI Award)*.

The vast majority of our clients' claims to vary the SCHCDSI Award are being advanced by reason of the changes taking place in the industry due to the introduction of the National Disability Insurance Scheme (NDIS).

In support of each of those claims, our clients intend to adduce a detailed evidentiary case detailing the nature of the changes taking place in the industry and the impact of the NDIS on employers in the industry (the 'NDIS case').

One of the claims pursued by our clients relates to part-time employment.

On 17 July 2015, pursuant to directions issued by the Commission in AM2014/196 and AM2014/197 on 29 June 2015, our clients filed a Draft Determination outlining the variation sought in relation to the issue of part-time employment.

That variation sought is specific to the SCHCDSI industry and is tailored to the particular requirements of that industry.



We note that the Commission has identified 'part-time employment' as being a matter which would be regarded as a 'common issue' for the purposes of the 4 yearly review.¹

We also note that on 1 December 2014, the Commission expressed its view that it 'is appropriate that all matters pertaining to casual and part-time employment be dealt with by one Full Bench, the Casual and Part-time Employment Full Bench'.²

That view was arrived at in order to 'ensure that the range of issues relating to casual and part-time employment are dealt with efficiently and to minimise the risk of inconsistent decisions'.

Notwithstanding the above, our clients are concerned that the referral of its 'part-time' claim in the SCHCDSI Award to the separate Full Bench will result in our clients having to run effectively the same 'NDIS case' twice: once before the casual/part-time full bench and again in the individual Award stage review of the SCHCDSI Award.

In the circumstances, we request that the Commission give consideration as to whether it might be more efficient to allow our clients' claim, and possibly the other part-time and casual claims relating to the SCHCDSI Award, to be dealt with as part of the individual award stage review of the SCHCDSI Award.

Lastly, we note that we have sought the views of a variety of parties who have indicated an interest in the SCHCDSI Award. While some parties indicated support for this proposal, we can confirm that there is no agreement amongst the parties regarding this proposal, and certain parties have expressed a view that the matter should remain within the remit of the part-time/casual Full Bench.

If it is the case that the Commission is not moved to reconsider its approach, our clients will of course comply with the Directions set by the part-time/casual Full Bench.

We thank the Commission for its consideration of this matter.

If you have any questions, please contact Emily Baxter on (02) 9458 7802.

Yours sincerely



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¹ [2014] FWC 1790 at [8].

² [2014] FWC 8583 at [19].