

**From:** ROSS, Justice

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**Subject:** Pharmacy Industry Award 2010

Dear Parties,

A conference has been convened for Wednesday, 2 September 2015 at 4pm. The purpose of this email is to outline the matters to be discussed at the conference.

In a recent Full Bench [decision](#) dealing with a number of drafting and technical issues which have arisen in the award stage of the 4 yearly review the Commission said:

‘An award should be able to be read by an employer or employee without needing a history lesson or paid advocate to interpret how it is to apply in the workplace’ ([2015] FWCFB 4658 at [7])

One of the s.134 considerations is ‘the need to ensure a simple, easy to understand ... modern award system’ (s.134(1)(g)). Since the commencement of the Review the Commission has undertaken a number of steps to reduce complexity of modern awards including:

- (i) The release of the Commission’s [‘Guide to Award Stage’](#) in June 2014, which outlines that modern awards drafted by parties or by staff should “avoid technical jargon and use simple language while ensuring provisions are precise and legally enforceable” and that the Commission would seek “the views of parties on any research material produced such as draft awards or model clauses”.
- (ii) The release of exposure drafts prepared by Commission staff as part of the Award Stage, taking into account the above principles.
- (iii) The release of qualitative ‘citizen co-design’ research in September 2014 (undertaken with small business operators) which reviewed the usability of a selection of modern awards and an Exemplar Award to address some of the structural issues identified in modern awards. This research has informed the Commission’s approach to preparing exposure drafts and its approach to further simplifying awards.

Consistent with these initiatives the Commission is looking to pilot a plain language project. As part of the Review, a number of parties have submitted drafts seeking to reduce complexity in awards. One of these submissions, by the Pharmacy Guild of Australia, included the submission of a ‘Plain English Draft’ of the *Pharmacy Industry Award 2010* to the Award stage of the Review. Given the interest the Pharmacy Guild has taken in this area it seems to me that the *Pharmacy Industry Award 2010* is a suitable vehicle for such a pilot.

The pilot would entail the Commission engaging an external expert in plain language drafting to develop a plain language draft of the award subject to the following:

- (i) A draft prepared by the plain language expert will be based on the exposure draft of the *Pharmacy Industry Award 2010*.

- (ii) Clauses already agreed to by parties as part of the Review as well as standard clauses established by Full Bench decisions of the Commission will not be subject to plain language redrafting and will be retained in any plain language instrument arising from the pilot.
- (iii) The pilot process will refer to the 'Plain English Draft' submitted by the Pharmacy Guild of Australia and any comments on that draft submitted by other interested parties.
- (iv) The plain language draft is not intended to change the substantive legal effect of any award term.

The purpose of the conference is to discuss how the parties wish to engage in the proposed pilot.

Regards,

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**President**

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