

## SUBMISSION ON BEHALF OF THE MOTOR TRADES ASSOCIATIONS

### 2014 MODERN AWARD REVIEW – TRANSITIONAL PROVISIONS – DISTRICT ALLOWANCES

RE: AM2014/190

#### APPLICATION BY THE AUSTRALIAN SERVICES UNION

#### APPLICATION BY THE SHOP, DISTRIBUTIVE AND ALLIED EMPLOYEES' ASSOCIATION

### RE: VEHICLE MANUFACTURING, REPAIR, SERVICES AND RETAIL AWARD 2010 [MA000089] AND CLERKS – PRIVATE SECTOR AWARD 2010 [MA000002]

1. This submission is made on behalf of the following organisations, collectively referred to as '**MTA Organisations**' in this submission: Motor Traders' Association of New South Wales, the Motor Trade Association of Western Australia, and the Motor Trades Association of Queensland.
2. This submission is in response to the applications made by the Australian Services Union (**ASU**) dated 26 February 2018 and the Shop Distributive and Allied Employees' Association (**SDA**) dated 19 February 2018.
3. The MTA Organisations oppose the inclusion of district allowances, specifically those in the Vehicle Manufacturing, Repair, Services and Retail Award 2010 (**Vehicle Award**) and the Clerks – Private Sector Award 2010 (**Clerks Award**).
4. An Industry Report 2017<sup>1</sup> produced by the VACC in partnership with the state/territory Motor Trades Associations provides that a large percentage of the vehicle industry (96.5%) is comprised of small and family-owned enterprises, with the majority of businesses (54.6%) employing between 1-19 employees, followed by sole proprietors with no employees (41.9%). The Industry Report also shows that most businesses in the industry had a reported annual turnover of between \$200,000 to less than \$2 million (45.3%), with a considerable portion of businesses with an annual turnover of less than \$50,000 (12.8%). This data, from page 10 of the Industry Report, is provided in **Attachment "A"**.
5. The MTA Organisations continue to rely on prior submissions filed on 17 April 2015<sup>2</sup>. Paragraphs 18-21 put forward that with the exception of fixing any anomalies or ambiguous clauses, the terms of the Vehicle Award had been agreed to as a result of consultative award modernisation sessions, including the subsequent deletion of district allowances from the Vehicle Award. Paragraphs 23 to 27 highlight that there is no history of district allowances being applicable in NSW and further that NSW is characterised by large regional cities and smaller towns in between which means that, invariably, there is acceptable access to reasonable services and support. In paragraph 28 and 32, it is put forward that people can choose to live where they live in the vehicle industry, and employers do not force employees to live in a particular place. Therefore, we submit that there is no merit in the claim to impose district allowances on the vehicle industry. Paragraphs 36 and 37 show that it was clear that the Australia Industrial Relations Commission in 2008 was not concerned with preserving district allowances in states or territories other than Western Australia and

---

<sup>1</sup> <http://www.vacc.com.au/Directions-Report>

<sup>2</sup> <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/common/am2014190-sub-mta-170415.pdf>

Northern Territory. Therefore the Queensland district allowances were considered insignificant.

6. The MTA Organisations submit that there is no cogent evidence of the reasons as to why such transitional provisions should now be reinstated in awards given that such provisions have had no application post the deadline of 31 December 2014, and in some areas, had no application in the Clerks Award.
7. The ASU submission seeks the inclusion of district allowances in the Clerks Award, stating that the allowance should apply to all award covered employees working in the clerical industry. However, the Clerks Award is an occupational award and it had application in relation to clerical employees engaged in industry awards such as the Vehicle Award. In this context the MTA Organisations submit that if it were decided that district allowances are to be included in the Clerks Award, then the district allowance should be limited to only apply where the employees work in association with other employees who are covered by an industry award that prescribes a district allowance.
8. Moreover, in this circumstance a district allowance applicable under the industry award should apply in lieu of the district allowance under the Clerks Award. There is no logic or evidence put forward as to why one class of employees would be entitled to a district allowance when the majority of employees in the workplace under an industry award do not receive a district allowance, and if there is a district allowance applicable in an industry award why clerical employees should receive a different entitlement.
9. The rationale by the ASU of using the Australian Defence Force (**ADF**) district allowances is opposed as the rates are similar to those paid by the ADF. These rates are provided at **Attachment "B"**. Small businesses should not be expected to be able to pay similar allowance amounts to the ADF, and any amount awarded should be an amount similar to what employees were receiving in the past or what is currently being received in the state system. The general characteristics of these ADF payments are that they are paid to those who are posted to remote locations, where small businesses in the vehicle industry would not be sending employees to work in these locations, but are choosing from the individuals that have chosen to live in these locations.
10. The amounts in prior and current state awards are outlined in **Attachment "C"** and **Attachment "D"** and show that the amounts in the ASU and SDA applications are inflated compared to these amounts.

#### **Clerks – Private Sector Award 2010 – Parkes Shire district allowance**

11. While the ASU submissions have included a district allowance for the Parkes Shire in the Clerks Award, there was no evidence provided by the ASU to support why employees in the Parkes Shire should receive this additional amount. The MTA organisations submit that the onus lies with the Applicant to put forward a substantive case for district allowances to be included as a permanent fixture in the relevant modern awards.
12. While the ASU state in their submissions that the proposed variations take into account the "relative living standards and needs of the low paid" (paragraph 8 of the ASU submissions) or "disabilities associated with the performance of particular tasks or work in particular conditions and locations" (paragraph 9 of the ASU submissions), there is no evidence to

support these statements in relation to including a district allowance for Parkes. The witness statements in Attachment C of the ASU submissions do not include any individuals from Parkes.

13. The MTA Organisations submit that Parkes is not an isolated area. It is approximately a 1.5 half hour drive to Dubbo, and 1.2 hour drive to Orange from Parkes.
14. In paragraph 11 of the ASU submissions, they refer to a long and varied history of district allowance entitlements for employees reliant on awards and provide a list of predecessor awards (at Attachment B of the ASU submissions) that had district allowances or similar entitlements. The list of awards in Attachment B of the ASU submissions does not support that clerical employees received a district allowance in Parkes in the past.
15. The ASU also state in paragraph 11 of their submissions that some award reliant employees covered by the modern awards identified in 2(ii) of their application had lost their transitional entitlements to district allowances from 31 December 2014. The MTA Organisations dispute that there has been a history of district allowances for employees in the Parkes Shire, and also dispute that there has been a loss of transitional entitlements to a district allowance. Employees in the Parkes shire were not entitled to a district allowance as a transitional provision under the Clerks Award, nor were they entitled to a district allowance under the predecessor State Award, the Clerical and Administrative Employees (State) Award [AN120664].
16. The 2017 Regional Price Index provided at Attachment D of the ASU submissions is from the Department of Western Australia and is not applicable to the Parkes Shire.

#### **Clerks – Private Sector Award 2010 – Yancowinna County district allowance**

17. While the ASU submissions have included a district allowance for the Yancowinna County in the Clerks Award, there was no cogent evidence provided by the ASU to support why clerical employees in the Yancowinna County should receive this additional amount. The MTA organisations submit that the onus lies with the Applicants to put forward a substantive case for district allowances to be included as a permanent fixture in the relevant modern awards.
18. The witness statement in Attachment C from Mr Mark Lenton from Broken Hill provides an account from an individual in the Energy industry earning \$100,000 per annum. The MTA Organisations submit that this account does not provide a case to reflect the relative living standards and needs of the low paid, or disabilities associated with the performance of particular tasks or work in particular conditions and locations. While the account from Mr Lenton puts forward claims there are higher costs of living, the account does not provide any evidence of individuals that are struggling to afford the costs of living comparable to their wage.
19. The MTA Organisations submit that any claims of higher costs of groceries, clothing and fuel in Broken Hill are outweighed by savings in mortgage repayments and rental costs when compared to Sydney. **Attachment “E”** provides data from the Australian Bureau of Statistics (ABS) 2016 Census regarding rent weekly payments and mortgage monthly payments. The data shows that the median weekly rent in Broken Hill is \$190, while in Sydney it is \$440. It also shows that the median mortgage monthly repayment in Broken Hill is \$953, while in Sydney it is \$2,167.

20. The ABS 2016 Census shows that 93.1% of Broken Hill households have weekly rent payments that are less than 30% of household income, where 85.8% of Sydney households have weekly rent payments that are less than 30% of household income. The data also shows that 96.9% of Broken Hill households have mortgage repayments that are less than 30% of household income, where 91.6% of Sydney households have mortgage repayments that are less than 30% of household income. This data demonstrates that a higher percentage of Broken Hill households are spending less of their income on rent or mortgage repayments, and are able to spend their income elsewhere.
21. In paragraph 11 of the ASU submissions, they refer to a long and varied history of district allowance entitlements for employees reliant on awards and provide a list of predecessor awards (at Attachment B of the ASU submissions) that had district allowances or similar entitlements. The list of awards in Attachment B of the ASU submissions does not support that clerical employees received a district allowance in Broken Hill.
22. The ASU also state in paragraph 11 of their submissions that some award reliant employees covered by the modern awards identified in 2(ii) of their application had lost their transitional entitlements to district allowances from 31 December 2014. Employees in the County of Yancowinna were not entitled to a district allowance as a transitional provision under the Clerks Award.
23. The predecessor State Award, the Broken Hill Commerce and Industry Consent Award 2008 (**Broken Hill NAPSA**), did not contain any district allowances, and any differences in wages and penalty payments have now completed the phasing process under the transitional provisions contained within modern awards. When assessing the differences between the Broken Hill NAPSA rates and the Clerks Award rates immediately before 1 July 2010, the majority of the rates under the Clerks Award rates were higher than those under the Broken Hill NAPSA as provided in **Attachment "F"**. Based on this comparison, the MTA Organisations put forward that overall, a loss of an entitlement under the Clerks – Private Sector Award 2010 has not been demonstrated by the Applicant submissions.
24. The 2017 Regional Price Index provided at Attachment D of the ASU submissions is from the Department of Western Australia and is not applicable to the Yancowinna County.

#### **Clerks – Private Sector Award 2010 – Queensland**

25. While the ASU submissions have included a district allowance for the areas in Queensland in the Clerks Award, there was no evidence provided by the ASU to support why employees in these Queensland areas should receive this additional amount. The MTA organisations submit that the onus lies with the Applicant to put forward a substantive case for district allowances to be included as a permanent fixture in the relevant modern awards.
26. While the ASU state in their submissions that the proposed variations take into account the "relative living standards and needs of the low paid" (paragraph 8 of the ASU submissions) or "disabilities associated with the performance of particular tasks or work in particular conditions and locations" (paragraph 9 of the ASU submissions), there is no evidence to support these statements in relation to including a district allowance for Queensland areas. The witness statements in Attachment C of the ASU submissions do not include any individuals from any of the Queensland areas where a district allowance is sought.

27. In the predecessor awards to the Clerks Award, while divisional and district allowances in Queensland ranged from \$0.90 to \$3.25 per week, the allowances remained at those levels for decades and no union applied to have the allowances varied in this time. There was no evidence provided that the district allowance remains of any relevance in Queensland.
28. The ASU also state in paragraph 11 of their submissions that some award reliant employees covered by the modern awards identified in 2(ii) of their application had lost their transitional entitlements to district allowances from 31 December 2014. Employees in the Queensland areas were not entitled to a district allowance as a transitional provision under the Clerks Award. The district allowances were transitional provisions for the Northern Territory and Western Australia only.
29. The 2017 Regional Price Index provided at Attachment D of the ASU submissions is from the Department of Western Australia and is not applicable to areas in Queensland.

### **Vehicle Manufacturing, Repair, Services and Retail Award 2010 and Clerks – Private Sector Award 2010 – Western Australia**

30. While the MTA Organisations generally oppose the inclusion of district allowances, if it were decided that district allowances should be included, the amount for the WA locations should be similar to the allowances set by the Western Australian Industrial Relations Commission.
31. The amounts sought by the ASU are significantly more than the allowances applicable to non-constitutional corporations in the vehicle industry (these amounts are provided for in Attachment “D”).
32. In the vehicle industry, the two main awards applicable are the Vehicle Award and the Clerks Award. In the SDA application, the district allowance sought is currently \$34.63 per week. In the ASU application, the district allowance sought in WA is \$101.35 per week, except in the City of Kalgoorlie-Boulder where the amount is \$17.69 per week. The MTA Organisations put forward that there is no evidence for the majority of clerical employees to be paid significantly more than those covered under the Vehicle Award, and that if district allowances are awarded, the allowance (or lack of entitlement to an allowance) under the industry award should apply in lieu of the district allowance under the Clerks Award.

### **Conclusion**

33. The MTA Organisations oppose the inclusion of district allowances in the Vehicle Manufacturing, Repair, Services and Retail Award 2010 and the Clerks – Private Sector Award 2010, and submit that the applications have not provided any substantive evidence as to why such transitional provisions should now be reinstated in awards given that such provisions have had no application post the deadline of 31 December 2014.
34. The submissions and supporting evidence do not show how there has been a hardship since losing the entitlement from 1 July 2014 (end of the Schedule A transitional provisions for wage rates and penalties) or from 1 December 2014 (end of the transitional provisions for district allowances).

35. If it were decided that the district allowances are to become a permanent fixture in the Vehicle Award and Clerks Award, then the MTA Organisations put forward that occupational awards should be consistent with an industry award entitlement.

Regards,

A handwritten signature in black ink that reads "Antonette Soliven". The signature is written in a cursive style with a large initial 'A' and a long, sweeping underline.

Antonette Soliven  
Employment Relations Advisor  
Motor Traders' Association of NSW, on behalf of the MTA Organisations

Attachment "A"

Extract from the Directions in Australia's Automotive Industry – An Industry Report 2017 (page 10)

Chart 1: Business Share of Automotive Industry by Employment Size, June 2016 (%)

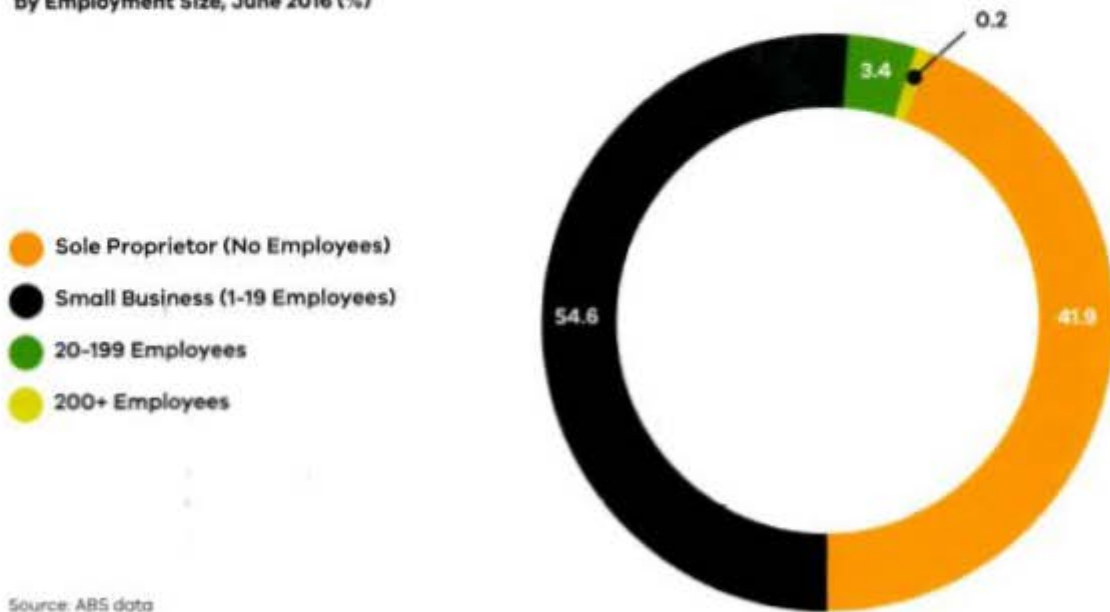
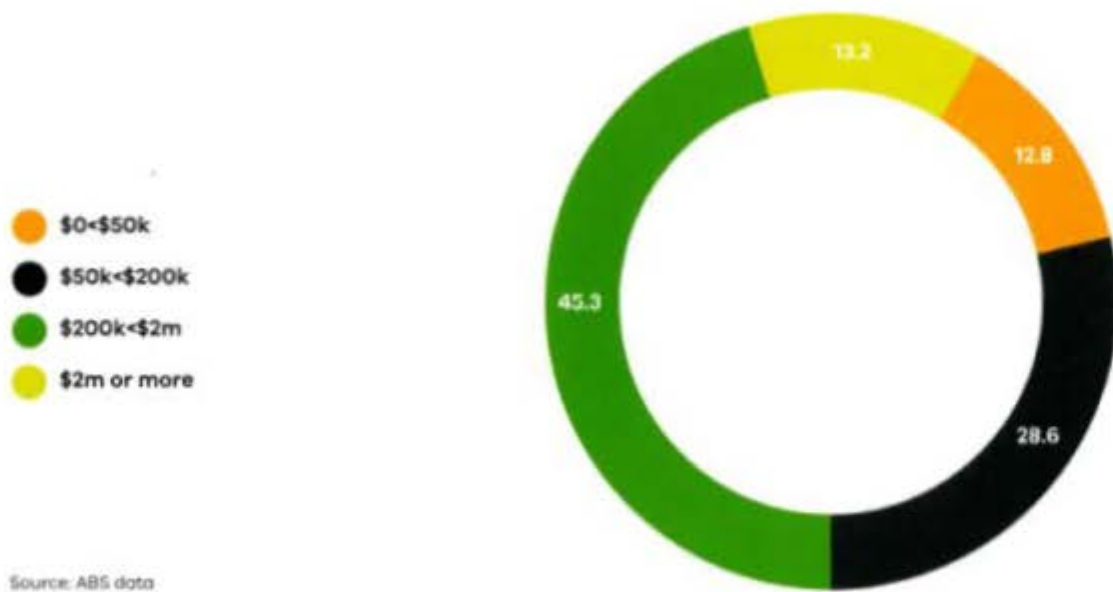


Chart 2: Business Share of Automotive Industry by Annual Turnover, June 2016 (%)



## Attachment "B"

### Australian Defence Force district allowance

#### 4.4.9 Rate of allowance – member living in

The following table sets out the rates of ADF district allowance payable to a member who lives in at a remote location.

**District allowance**

<b>Item</b>	<b>If the member is living in at a location graded...</b>	<b>then their yearly rate of allowance is (\$)...</b>
1.	A	940
2.	B	2,685
3.	C	3,360
4.	D	4,705
5.	E	5,380

Source: <http://www.defence.gov.au/PayAndConditions/ADF/Chapter-4/Part-4/Div-1.asp>



**Attachment "C"**

**Engineering Award - State 2002 [AN140107]**

5.8.10 *Divisional and District allowance* - In addition to the rates of wages set out in this Award for the Southern Division, Eastern District, the following amounts shall be paid to employees to whom this award applies employed in the Divisions and Districts referred to hereunder:

	<b>Per Week</b>
	\$
Southern Division, Western District	\$1.05
Mackay Division	\$0.90
Northern Division, Eastern District	\$1.05
Northern Division, Western District	\$3.25

## Attachment "D"

### Motor Vehicle (Service Station, Sales Establishments, Rust Prevention and Paint Protection) Industry Award No. 29 of 1980 [MOT002]

#### 17. LOCATION ALLOWANCES

(1) Subject to the provisions of this clause, in addition to the rates prescribed in the wages clause of this award, an employee shall be paid the following weekly allowances when employed in the towns prescribed hereunder. Provided that where the wages are prescribed as fortnightly rates of pay, these allowances shall be shown as fortnightly allowances.

<b>Town</b>	<b>Per week</b>
Agnew	\$21.30
Argyle	\$57.00
Balladonia	\$22.00
Barrow Island	\$37.10
Boulder	\$9.10
Broome	\$34.30
Bullfinch	\$10.00
Carnarvon	\$17.60
Cockatoo Island	\$37.60
Coolgardie	\$9.10
Cue	\$21.90
Dampier	\$29.90
Denham	\$17.60
Derby	\$35.70
Esperance	\$6.20
Eucla	\$23.90
Exmouth	\$31.30
Fitzroy Crossing	\$43.30
Halls Creek	\$50.00
Kalbarri	\$7.60
Kalgoorlie	\$9.10
Kambalda	\$9.10
Karratha	\$35.90
Koolan Island	\$37.60
Koolyanobbing	\$10.00
Kununurra	\$57.00
Laverton	\$21.80
Learmonth	\$31.30
Leinster	\$21.30
Leonora	\$21.80
Madura	\$23.00
Marble Bar	\$55.20
Meekatharra	\$18.90
Mount Magnet	\$23.70

Mundrabilla	\$23.50
Newman	\$20.50
Norseman	\$18.80
Nullagine	\$55.10
Onslow	\$37.10
Pannawonica	\$27.80
Paraburdoo	\$27.70
Port Hedland	\$29.70
Ravensthorpe	\$11.30
Roebourne	\$41.30
Sandstone	\$21.30
Shark Bay	\$17.60
Southern Cross	\$10.00
Telfer	\$50.80
Teutonic Bore	\$21.30
Tom Price	\$27.70
Whim Creek	\$35.50
Wickham	\$34.30
Wiluna	\$21.60
Wyndham	\$53.40

## Attachment "E"

### Australian Bureau of Statistics 2016 Census QuickStats

#### Broken Hill:

##### Dwellings — mortgage & rent

[dwelling structure](#) | [household composition](#) | [mortgage & rent](#) | [number of motor vehicles](#) | [internet connection](#)

Proportions are calculated using all tenure types for occupied private dwellings. This excludes visitor only and other non-classifiable households.

Rent weekly payments	Broken Hill (C)	%	New South Wales	%	Australia	%
Median rent	190	--	380	--	335	--
Households where rent payments are less than 30% of household income	--	93.1	--	87.1	--	88.5
Households with rent payments greater than or equal to 30% of household income	--	6.9	--	12.9	--	11.5

The number of households where rent payments were 30% or more of an imputed income measure are expressed in this table as a proportion of the total number of households in an area (including those households which were not renting, and excluding the small proportion of visitor-only and other non-classifiable households). The nature of the income imputation means that the reported proportion may significantly overstate the true proportion.

[View the data quality statement for Rent weekly payments \(RNTD\)](#)

Mortgage monthly repayments	Broken Hill (C)	%	New South Wales	%	Australia	%
Median mortgage repayments	953	--	1,986	--	1,755	--
Households where mortgage repayments are less than 30% of household income	--	96.9	--	92.6	--	92.8
Households with mortgage repayments greater than or equal to 30% of household income	--	3.1	--	7.4	--	7.2

The number of households where mortgage repayments were 30% or more of an imputed income measure are expressed in this table as a proportion of the total number of households in an area (including those households which were renting, and excluding the small proportion of visitor only and other non-classifiable households). The nature of the income imputation means that the reported proportion may significantly overstate the true proportion.

[View the data quality statement for Mortgage monthly repayments \(MRED\)](#)

#### Source:

[http://www.censusdata.abs.gov.au/census\\_services/getproduct/census/2016/quickstat/LGA11250?opendocument](http://www.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/LGA11250?opendocument)

#### Sydney:

Rent weekly payments	Greater Sydney	%	New South Wales	%	Australia	%
Median rent	440	--	380	--	335	--
Households where rent payments are less than 30% of household income	--	85.8	--	87.1	--	88.5
Households with rent payments greater than or equal to 30% of household income	--	14.2	--	12.9	--	11.5

The number of households where rent payments were 30% or more of an imputed income measure are expressed in this table as a proportion of the total number of households in an area (including those households which were not renting, and excluding the small proportion of visitor-only and other non-classifiable households). The nature of the income imputation means that the reported proportion may significantly overstate the true proportion.

[View the data quality statement for Rent weekly payments \(RNTD\)](#)

Mortgage monthly repayments	Greater Sydney	%	New South Wales	%	Australia	%
Median mortgage repayments	2,167	--	1,986	--	1,755	--
Households where mortgage repayments are less than 30% of household income	--	91.6	--	92.6	--	92.8
Households with mortgage repayments greater than or equal to 30% of household income	--	8.4	--	7.4	--	7.2

The number of households where mortgage repayments were 30% or more of an imputed income measure are expressed in this table as a proportion of the total number of households in an area (including those households which were renting, and excluding the small proportion of visitor only and other non-classifiable households). The nature of the income imputation means that the reported proportion may significantly overstate the true proportion.

[View the data quality statement for Mortgage monthly repayments \(MRED\)](#)

#### Source:

[http://www.censusdata.abs.gov.au/census\\_services/getproduct/census/2016/quickstat/1GSYD?opendocument](http://www.censusdata.abs.gov.au/census_services/getproduct/census/2016/quickstat/1GSYD?opendocument)

## Attachment "F"

The below table shows the difference between the Clerks – Private Sector Award 2010 [MA000002] and the Clerical and Administrative Employees (State) Award [AN120664] immediately before 1 July 2010.

The difference is the rate under MA000002 less the rate under AN120664.

MA000002 classification	AN120664 classification	MA000002 award rate	AN120664 rate	Difference / Transitional amount
Level 1				
Level 1 - Year 1	Grade 1	\$580.00	\$595.28	-\$15.28
Level 1 - Year 2	Grade 1	\$610.00	\$595.28	\$14.72
Level 1 - Year 3	Grade 1	\$630.00	\$595.28	\$34.72
Level 2				
Level 2 - Year 1	Grade 2	\$637.60	\$616.18	\$21.42
Level 2 - Year 2	Grade 2	\$650.00	\$616.18	\$33.82
Level 3	Grade 3	\$675.00	\$649.88	\$25.12
Call centre principal customer specialist	Grade 4	\$680.00	\$691.58	-\$11.58
Level 4	Grade 4	\$710.00	\$691.58	\$18.42
Level 5	Grade 5	\$740.00	\$747.22	-\$7.22
Call centre technical associate	Grade 5	\$813.00	\$747.22	\$65.78