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Business SA Submission in Reply

4 Yearly Review of
Modern Awards – *Clerks*
– *Private Sector Award*
2016 exposure draft

27 September 2016

Introduction

On 17 August 2016 directions¹ were issued for parties to provide submissions on the revised *Clerks – Private Sector Award 2016* exposure draft.² These submissions were to address the outstanding technical and drafting issues highlighted by revised summary of submissions.³ Business SA provided this submission on 8 September 2016.⁴ Submissions were also provided by Australian Business Industrial and the New South Wales Business Chamber Ltd ('ABI'),⁵ Ai Group ('AiG')⁶ and the Australian Services Union's ('ASU').⁷ The Fair Work Commission called for submissions in reply by Tuesday 27 September 2016.⁸ The following are Business SA's submissions in reply.

1. Item 4

Business SA agrees with the submissions of AiG⁹ and ABI.¹⁰

2. Items 8 and 39

Business SA agrees with ABI's submission regarding a definition of 'shiftworker'.¹¹ We also reiterate our position that we will consider any wording put forward by other interested parties on this matter.¹²

3. Items 9 and 10

Business SA disagrees with the **ASU's** submission¹³ and **agrees with AiG's submission regarding items 9 and 10**.¹⁴

4. Items 17, 18 and 40

Business SA disagrees with the **ASU's submission regarding** span of hours alterations under the exposure draft.¹⁵ Business SA agrees with submissions of ABI¹⁶ and refers to our recent submission on these items.¹⁷

¹ [Directions](#) [2].

² [Clerks – Private Sector 2016 revised exposure draft](#).

³ [Revised summary of submissions](#).

⁴ Business SA, [Clerks – Private Sector Award 2010 Outstanding Technical and Drafting Issues Revised Exposure Draft](#), 8 September 2016.

⁵ ABI, [AM2014/219 – Submission on Outstanding Technical and Drafting Issues](#), 6 September 2016, [1].

⁶ AiG, [Revised Exposure Draft – Outstanding Technical and Drafting Issues – Clerks – Private Sector Award 2010 \(AM2014/219\)](#), 12 September 2016, [3]-[6].

⁷ ASU, [AM 2014/219 submission](#), 8 September 2016, [7]-[10].

⁸ [Directions](#) [3].

⁹ AiG, [Revised Exposure Draft – Outstanding Technical and Drafting Issues – Clerks – Private Sector Award 2010 \(AM2014/219\)](#), 12 September 2016, [3]-[6].

¹⁰ ABI, [AM2014/219 – Submission on Outstanding Technical and Drafting Issues](#), 6 September 2016, [1].

¹¹ *Ibid* [2].

¹² Business SA, above n 4, [2].

¹³ ASU, [AM 2014/219 submission](#), 8 September 2016, [7]-[10].

¹⁴ AiG, above n 6, [10]-[16].

¹⁵ ASU, above n 7, [11]-[12], [16].

¹⁶ ABI, above n 5, [4], [6].

¹⁷ Business SA, above n 4, [4], [6].

5. Item 44

Business SA continues to oppose the ASU's submission to replace cl 15.2 of the exposure draft with a new shiftworker clause.¹⁸ Further, we agree with comments by AiG that this issue be dealt with outside the 'technical and drafting' issues of this award.¹⁹

6. Item 45

While Business SA acknowledges the Fair Work Ombudsman's submission regarding this item, we agree with submissions of ASU²⁰ and ABI;²¹ there is no ambiguity in the operation of this clause. Further, we support AiG's submission regarding this item's history.²²

7. Item 49

Business SA agrees with submissions of other interested parties regarding this item; the title of clause 13 should be amended.²³

Conclusion

Business SA thanks Australian Business Industrial and the New South Wales Business Chamber Ltd, the Australian Industry Group and the Australian Services Union for their submissions regarding the *Clerks – Private Sector* revised exposure draft. We also thank the Fair Work Commission for facilitating this review process.

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¹⁸ ASU, above n 7, [18].

¹⁹ AiG, above n 6, [20].

²⁰ ASU, above n 7, [19].

²¹ ABI, above n 5, [9].

²² AiG, above n 6, [23].

²³ ABI, above n 5, [10]; AiG, above n 6, [26]; ASU, above n 7, [20].