



Fair Work Commission

AM2014/285

4 yearly Award Review of modern awards

Social, Community, Home Care and Disability Services
Industry Award 2010

Australian Services Union Submission in reply

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1. This submission is in response to the Decision¹ made on 7 August 2018 in relation to the *Social, Community, Home Care and Disability Services Industry Award 2010* ('**SCHDS Award**').

Item 32 – Minimum wages

2. At paragraph 400 of the Decision of 7 August 2018, the Full Bench invited interested parties to comment on its provisional view that Schedule A and cls F.1 and F.3 should be deleted. We disagree with the provisional view that cls F.1 and F.3 should be deleted. We agree that Schedule A is inaccurate and currently has no practical application.

Clauses F.1

3. Our first preference is to retain but vary cl F.1. Clause F.1 summarises pay rates for employees in classifications under Schedule B ('**SACS**') and Schedule C ('**Crisis Accommodation**'). It should be varied so that the pay summaries consider the additional payments required by the Equal Remuneration Order² ('**ERO**') or the Transitional Pay Equity Order ('**TPEO**'). This approach will ensure that the SCHDS Award achieves the Modern Awards Objective.
4. Section 134 (1) (g) of the *Fair Work Act 2009* (Cth) ('**the Act**') requires the Fair Work Commission to take into account 'the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards' when exercising its powers under s 156.
5. In its current form cl F.1 is inaccurate and confusing to the lay reader. Few SACS or Crisis Accommodation employees are paid the bare SCHDS Award rates. These summaries cannot even be used as guide to calculating ERO rates. ERO transitional

¹ [2018] FWCFB 4175

² PR525485

rates are calculated by reference to the application agreement-based and award-based transitional instruments. TPEO rates are calculated based on the Queensland equal remuneration decision.³ They should not be included in the SCHDS Award in their current form.

6. However, if summaries for other classification streams are also included in the SCHDS Award, deleting cl F.1 would not fix the issue. Inconsistent treatment of the different streams will make the award less simple and less easy to understand.
7. If the Full Bench is minded to delete cl F.1, then the entire Schedule F should be deleted. This will ensure that the each stream of the SCHDS Award is treated consistently. This would also be consistent with the Modern Awards Objective.

Clause F.3

8. Clause F.3 should not be deleted. Clause F.3 summarises hourly rates for Home Care employees classified under Schedule E of the Award. Home Care employees are not covered by the ERO or the TPEO. The ERO and the TPEO only apply to employees classified under Schedules B and C of the SCHDS Award. Therefore, clause F.3 is accurate and should be retained.

ASU Substantive Claims

9. The ASU substantive claims were not included in the summary of substantive items at Attachment B of the Decision.
10. The ASU confirms we are pursuing Items S6, S7, and S36 of the Revised Summary of Proposed Substantive Variations published on 21 November 2017.

³ *Queensland Services, Industrial Union of Employees and Queensland Chamber of Commerce and Industry Ltd, Industrial Organisation of Employees and Others* [2009] QIRC (6 May 2009) (Commissioner Fisher).

Draft Consent Determinations

11. The interested parties to the SCHDS Award filed a draft consent determinations on 8 May 2017. We note that this was not dealt with in the Decision of 7 August 2018.
12. We ask that these matters be referred to the appropriate Full Bench for determination.