

14 September 2016

Dear AMOD Team,

Correspondence: AM2014/239 – Learner Shearers

Business SA provides this correspondence in response to directions issued on 8 September 2016.¹ On 8 July 2016 the Full Bench provided a Draft Determination for the *Pastoral Award 2010* and parties were invited to comment.² In August 2016 Business SA filed a submission detailing our concern that Draft Determination clause 44.4(b)(ii) did not clearly explain how a learner shearer became a shearer during a run of sheds; alternative wording for this clause was provided.³ This submission was **marginally opposed by the Australian Worker's Union (AWU)**⁴ and the National Farmers' Federation (NFF) **declared their preference for the Draft Determination's wording.**⁵ Business SA has been asked to advise the Fair Work Commission whether our earlier submission will be pursued.

Business SA will withdraw the submission at this time.

Business SA acknowledges that the Draft Determination reflects wording agreed between the NFF and AWU, and that **"minor modifications consistent with the 'plain language' review of modern awards"** were applied to this Draft Determination.⁶ We also note the NFF's reference to the proposed term's history and use of industry-specific language.⁷

While withdrawing our submission, we anticipate this clause may need to be revisited when the *Pastoral Award* is re-drafted in plain language. The Full Bench has made clear the re-drafting process intends to **"remove ambiguity and make awards simpler and easier to understand."**⁸ Further, the Full Bench stated **"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."**⁹ A successful plain language clause has been stated as one where **"readers find it easy to use and understand."**¹⁰

With respect to the NFF's comments, Business SA maintains clause 44.4(b)(ii) of the Draft Determination does not meet these goals. The way this clause operates can be clarified. Clarification would make the clause simpler and easier for readers to understand, regardless of whether the reader has extensive history, or no history, under this award.

Business SA thanks the Fair Work Commission for the opportunity to comment on the Draft Determination. Should you require any further information or have questions, please contact Chris Klepper, Policy Adviser, on (08) 8300 0000 or chrisk@business-sa.com.

Yours sincerely,

Chris Klepper

Policy Adviser



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¹ [Directions](#), 8 September 2016.

² [\[2016\] FWCFB 4393](#), [83].

³ Business SA, [Submission – Learner Shearers](#), 23 August 2016.

⁴ Australian Worker's Union, [submission](#), 2 September 2016.

⁵ National Farmers' Federation, [Submission – Learner Shearers Term](#), 2 September 2016, [9].

⁶ *Ibid* [8].

⁷ *Ibid* [9].

⁸ [\[2015\] FWCFB 4658](#), [6].

⁹ *Ibid* [7].

¹⁰ [Report from Plain language modern award pilot](#), April 2016, [31].