

From: Brent Ferguson [<mailto:Brent.Ferguson@aigroup.com.au>]

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To: AMOD

Cc: Chambers - Ross J; Nigel Ward; Julian Arndt; Sophie Ismail; david.johns@natroad.com.au; 'Ben Rogers'; 'Emily Simpson'; 'Scott Harris'

Subject: Family Friendly Work Arrangements

Dear Associate,

I write in relation to the 4 yearly award review proceedings associated with the Commission's development of a provisional model term dealing with family friendly work arrangements (AM2015/2).

Ai Group and the ACCI have undertaken discussions with various employer parties in an effort to reach a joint position concerning a proposed alternate clause that may obviate the need for detailed argument over jurisdictional objections to the provisional model term developed by the Commission.

A copy of a proposed alternate clause that has been developed as a product of those discussions is attached.

Regards,

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Draft Joint Employer Proposal

Provisional Model Term

X Requests for Flexible Work Arrangements

NOTE: Section 65 of the Act provides for certain employees to request a change in working arrangements because of their circumstances as parents or carers. It also sets out formal requirements for making and either agreeing to, or refusing, such requests. Clause X sets out additional processes relating to the handling of such requests.

Application of additional obligations

X.1 This clause applies when an employee who is:

- (a) a parent, or has responsibility for the care, of a child who is of school age or younger; or
- (b) a carer (within the meaning of the Carer Recognition Act 2010),

makes a request under section 65 (1) of the Act for a change in working arrangements.

Obligation to try to reach agreement on a change in working arrangements

X.2 Before refusing a request, the employer must seek to confer with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances, having regard to the:

- (a) nature of the employee's responsibilities as a parent or carer;
- (b) consequences for the employee if changes in working arrangements are not made; and
- (c) consequences for the employer if the changes in working arrangements are made.

X.3 If the employer and employee reach agreement on a change in working arrangements that differs from that initially requested by the employee, the employer must set out the agreed change in writing and provide a copy of this agreement to the employee.

Obligation to provide further details if an employer refuses a request

NOTE: If pursuant to section 65 of the Act, an employer refuses an employee request for a change in working arrangements, the employer must provide an employee with a written response stating that the employer refuses the request and including details of the reason for the refusal. Clause X.4 requires an employer to include additional information in the response.

X.4 If pursuant to section 65 of the Act, the employer provides an employee written notice refusing a request in accordance with s 65 of the Act, the employer must provide in their written response:

- (a) the business ground or grounds for the refusal and how the ground or grounds apply;
- (b) an indication as to whether or not there are any changes in working arrangements that the employer can reasonably offer the employee so as to better accommodate the employee's responsibilities as a parent or carer; and
- (c) (if the employer can offer such changes) what those changes would be.

Dispute resolution

*X.5 Disputes about whether the employer has conferred with the employee and responded to the request in the way required by clause X.2, can be dealt with under clause Y—
Consultation and Dispute Resolution.*

NOTE: The Commission cannot deal with a dispute to the extent that it is about whether the employer had reasonable business grounds to refuse a request under section 65 of the Act, unless the employer and employee have agreed in a contract of employment or other written agreement to the Commission dealing with the matter.