

## THE FAIR WORK COMMISSION

Matter No:

*Fair Work Act 2009*

s. 156 – 4 yearly review of modern awards

4 yearly review of modern awards – Plain Language re-drafting

Pharmacy Industry Award 2010 (MA000012)

### SUBMISSION

#### INTRODUCTION

- 1 This submission is made by the Pharmacy Guild of Australia (**the Guild**) in accordance with the Statement issued by the Fair Work Commission (**the Commission**) on 5 July 2017<sup>1</sup> in relation to the revised exposure draft of the *Pharmacy Industry Award 2010 (PIA)* dated 5 July 2017 (**the Exposure Draft**).
- 2 These submissions follow the Commission's decision concerning the Exposure Draft dated 21 June 2017<sup>2</sup>

#### ISSUES FOR COMMENTS RAISED BY THE FULL BENCH

##### *Clause 4 Coverage*

- 3 The Guild supports the deletion of the words 'by retail' in clause 4.1 of the Exposure Draft and the provisional view expressed by the Full Bench to delete all of the words after 'government' in clause 4.1(c).

##### *Clause 4.3 - On Hire*

- 4 The Guild supports the inclusion of clause 4.3(a) of the Exposure Draft in accordance with the provisional view of the Commission expressed at paragraph [9] of the Decision.
- 5 The Guild relies upon its earlier submissions in relation to the matters raised by Business SA concerning the effect of clause 4.3(b) of the Exposure Draft.

##### *Clause 18.5 – Definition of 'Township'*

- 6 At paragraphs [11] and [12] of the Decision, the Commission observed that since the commencement of the plain language process all parties have indicated that formal definition needs to be applied to the term 'township'.

---

<sup>1</sup> [2017] FWCFB 3570.

<sup>2</sup> [2017] FWCFB 3337.

- 7 The current entitlement to reimbursement upon transfer of employment is contained at clause 19.4 of the PIA as follows:

***19.4 Transfer of employee reimbursement***

*Where any employer transfers an employee from one township to another, the employer will be responsible for and will pay the whole of the moving expenses, including fares and transport charges, for the employee and the employee's family.*

- 8 The SDA submits that a transfer from one township to another which requires a change in the residence of the employee would trigger the payment of moving expenses.
- 9 The Guild agrees that the allowance will only trigger in circumstances where an employee is required, at the direction of the employer, to transfer from one township to another.
- 10 The Oxford Dictionary defines "township" in the Australian designation as a small town. 'Town' is defined as a built up area with a name, defined boundaries and local government that is larger than a village and generally smaller than a city.
- 11 The Guild submits that 'township' should be given its ordinary meaning of or a small town in a rural district. This definition of township would maintain the original intent of the allowance applying to the transfer of employees between towns in a regional or rural setting.

*Clause 18.8 – Broken Hill Allowance*

- 12 The Guild does object to the inclusion of the Broken Hill Allowances at clause 18.8 of the Exposure Draft as proposed by the Commission at paragraphs [13] and [14] of the Decision.

*Clause 23.3 – Personal/Carers Leave for Casual Employees*

- 13 The Guild does object to amendments to clause 23.3 of the Exposure Draft as proposed by the Commission at paragraph [15] of the Decision.
- 14 The Guild notes that clause 23.3(d) of the Exposure Draft provides that 'casual employees' are not entitled to paid leave under clause 16.3(a) (Pharmacy students). Clause 16.3(a) of the Exposure Draft provides that 'a year of a course begins on the first day of the relevant academic term', it does not provide for any leave entitlement. It appears that this clause has erroneously been included in the Exposure Draft and the Guild submits this clause should be removed from the Exposure Draft.

**OTHER MATTERS**

- 15 The Guild notes that Schedule B of the Exposure Draft is missing a column for the applicable Sunday penalty rate for hours before 7 am and after 9pm. In accordance with paragraph [1824] of the Penalty Rates Decision [2017] FWCFB 1001, the Sunday penalty rate reduction is effective only between the hours of 7:00am and 9:00pm.