

FAIR WORK COMMISSION

Matter No.: AM2018/18 and AM2018/20

4 yearly review of modern awards –

Children’s Services Award 2010 and Educational Services (Teachers) Award 2010

SUBMISSIONS IN REPLY - UNITED WORKERS UNION

1. On 29 September 2020, the Commission published a Decision ([2020] FWCFB 5176) (**the Decision**) in relation to the *Children’s Services Award 2010 and the Educational Services (Teachers) Award 2010* (**the Awards**).
2. The 29 September Decision outlined the remaining outstanding matters in relation to these Awards. A Draft Determination was included at Attachment A of that Decision.
3. Next steps for finalising for interested parties were set out at [79] of the Decision including that the parties file written submissions addressing five outstanding matters by 9 October 2020. These Submissions are made by United Workers Union (**UWU**) in relation to that direction.

Outstanding matters 1-3:

4. The outstanding matters listed at [79] of the 29 September Decision include three matters which relate to proposed redrafting of clauses to give effect to the provisional view of the Commission of the June 2020 Decision ([2020] FWCFB 3011) (**the June Decision**). This includes:
 1. Part-time employment: the plain language redraft;
 2. Educational Leaders, non-contact time; and
 3. Clothing Allowance
5. The changes proposed for the matters above are included in the Draft Determination, Attachment A of the 29 September Decision. For all three matters UWU does not oppose the wording included in the Draft Determination.

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Outstanding matter 4: Minimum engagement, provisional view

6. At [61] of the September 29 Decision, the Commission outlined its provisional view that clause 14.5 of the *Educational Services (Teachers) Award 2010* be altered to adopt a 2 hour minimum engagement period to harmonise payments between casual early childhood teachers working in early childhood education.
7. UWU recognises the custom and practice of some early learning services to work flexible days of varying lengths. Any variation of the terms of minimum engagement in the *Educational Services (Teachers) Award 2010* must ensure no employee is worse off, given these practices.

Outstanding matter 5: Coverage

8. At [559] – [560] of the June 2020 Decision the Commission expressed a provisional view that the relevant parts of the *Educational Services (Teachers) Award 2010* be incorporated into the *Children’s Services Award 2010* in order to address the issue of employers having to refer to two Awards.
9. UWU filed a submission on the provisional view of the Commission on 30 June 2020 stating that the Union did not support the provisional view of the Commission. We note that the IEU and all but one employer association also opposed the provisional view.
10. UWU does not believe the proposed method of incorporating the teacher wage rates addresses the initial concerns of the Commission, as employers will still need to refer to both instruments. The clauses referenced back to the *Educational Services (Teachers) Award 2010* include substantive conditions such as ordinary hours of work, rostering and breaks, which are likely to need to be referred to by employers often, not substantially reducing the complexity of the management of early childhood teachers. As such UWU does not support the provisional view of the Commission.

UWU

09 October 2020