

**From:** Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>

**Sent:** Tuesday, 31 August 2021 4:20 PM

**To:** Michael Robson <mrobson@asu.asn.au>; Brent Ferguson <Brent.Ferguson@aigroup.com.au>; Leigh Svendsen <leighs@hsu.net.au>; 'Ben.redford@unitedworkers.org.au' <Ben.redford@unitedworkers.org.au>; Kyle Scott <Kyle.Scott@ablawyers.com.au>; peggms24@gmail.com; Tony Doyle <tony.doyle@afei.org.au>; Shue Yin Lo <shue.yin.lo@afei.org.au>; Ruchi Bhatt <ruchi.bhatt@aigroup.com.au>

**Cc:** AMOD <AMOD@fwc.gov.au>; Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>

**Subject:** Am2018/26 - SCHADS - Background Paper 3 - Tomorrow's hearing at 9.30am

**Importance:** High

OFFICIAL

Dear All

The Commission will shortly publish the **attached** Background Paper 3 in connection with the SCHADS proceedings.

The Background Paper summarises the submissions received in respect of a number of matters being dealt with during the course of tomorrow's hearing, namely:

- Damaged clothing;
- Remote response;
- Quantum of broken shifts allowance; and
- Matters arising out of the *August 2021 Decision*.

Please note that there was insufficient time to summarise submissions received in respect of all the outstanding issues before the Full Bench. In particular, Background Paper 3 *does not* address the following matters:

1. *NDS' proposal to amend clause 25.6 of the draft determination*

NDS proposed that the first sentence of clause 25.6 of the draft determination be amended to read:

'This clause only applies to day workers who are social and community service employees when undertaking disability services work and home care employees.'

2. *NDS' proposal to amend clause 25.6(d) of the draft determination*

NDS proposed that clause 25.6(d) of the draft determination be amended to read:

'Payment for a broken shift will be at ordinary pay with weekend and overtime penalty rates, including for time worked outside the span of hours, to be paid in accordance with clauses 26 and 28.'

3. *ASU's proposal to amend clause 25.6(d) of the draft determination*

The ASU proposed that clause 25.6(d) of the draft determination be amended to read:

'Payment for a broken shift will be at ordinary pay with shift, weekend, public holiday, and overtime, penalty rates to be paid in accordance with clauses 26, ~~and 28~~, 29 and 34.'

4. *ASU's proposal regarding travel during meal breaks*

The ASU proposed that, in the absence of a provision for paid travel time, the SCHADS Award should provide a clear statement that employees must not be required to travel between work locations during their meal breaks and that overtime should be payable until an employee is allowed a meal break free from travel.

**Please note:**

The Background Paper contains a series of questions addressed to relevant parties. Parties will be expected to respond to these questions during the course of tomorrow's hearing.

In addition, in its submissions of 25 August 2021, Ai Group submitted that the above outstanding issues (at 1-4 above) give rise to 4 questions, namely:

1. Does the Award permit an afternoon or night shift, as defined by clause 29.2, to be broken in accordance with clause 25.6? (The First Question)
2. Should clause 25.6 of the Award, which regulates the performance of work on broken shifts, be expressly limited to day workers? (The Second Question)
3. Should the Award be varied in some other way in relation to the intersection between clauses 25.6 and 29.4? (The Third Question)
4. Should clause 25.6(d) of the draft determination be amended as proposed by the ASU? (The Fourth Question)

Parties will be asked to comment on whether Ai Group's proposed questions accurately state the questions to be answered in respect of the outstanding broken shifts issue.

Kind regards

Jess

**Jessica Gelsumini**  
**Associate to The Hon. Justice IJK Ross**  
**President**

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