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6 December 2018

Vice President Catanzariti  
Fair Work Commission  
80 William Street  
East Sydney NSW 2011

By email: chambers.catanzariti.vp@fwc.gov.au

Dear Vice President,

**Re. AM2016/31 Health Professionals and Support Services Award 2010 & Nurses Award 2010 – draft determinations**

We refer to the above matter and decisions<sup>1</sup> issued by the Commission on 3 December 2018 in relation to the *Health Professionals and Support Services Award 2010* and the *Nurses Award 2010* (collectively, **Awards**).

The decisions include directions requiring interested parties to file submissions and draft determinations concerning specific variations that the Commission has decided to make to the Awards, by 4pm on 7 December 2018.

The Australian Industry Group (**Ai Group**) had proposed variations to the meal break provisions of the Awards. The proposed variations have the effect of enabling an employee and employer to agree that the employee will forfeit their meal break in the prescribed circumstances. The Full Bench has granted those variations.<sup>2</sup>

Ai Group supports the changes proposed to the Awards to the extent that they relate to the aforementioned variations that it sought. We **enclose** draft determinations that give effect to the Commission's decision in relation to those variations. In so doing we note that the draft determination concerning the *Nurses Award 2010* also adopts changes proposed by the Commission to clause 27.1(a) in light of a claim advanced by the Australian Nursing and Midwifery Federation (**ANMF**). Whilst Ai Group opposed the variation proposed by the ANMF, we acknowledge the Commission's decision in this regard and accordingly file a draft determination that adopts the changes that are proposed to clause 27.1(a) in relation to both the ANMF's claim and Ai Group's claim

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<sup>1</sup> *4 yearly review of modern awards – Health Professionals and Support Services Award 2010* [2018] FWCFB 7350 and *4 yearly review of modern awards – Nurses Award 2010* [2018] FWCFB 7347.

<sup>2</sup> *4 yearly review of modern awards – Health Professionals and Support Services Award 2010* [2018] FWCFB 7350 at [185] and *4 yearly review of modern awards – Nurses Award 2010* [2018] FWCFB 7347 at [144].



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Yours sincerely,

**Ruchi Bhatt**  
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# DRAFT DETERMINATION

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

## **4 yearly review of modern awards – Health Professionals and Support Services Award 2010** (AM2016/31)

VICE PRESIDENT CATANZARITI

SYDNEY, [DATE] [MONTH] 2018

*4 yearly review of modern awards – Health Professionals and Support Services Award 2010 – meal breaks.*

A. Further to the decision issued on 3 December 2018<sup>1</sup> it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Health Professionals and Support Services Award 2010*<sup>2</sup> be varied by:

1. By inserting a new clause 27.1(c):

(c) An employee who works not more than six hours may elect to forgo the meal break, with the consent of the employer.

B. This determination comes into effect on [insert date].

VICE PRESIDENT

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<sup>1</sup> [2018] FWCFB 7350.

<sup>2</sup> MA000027.



# DRAFT DETERMINATION

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

## **4 yearly review of modern awards – Nurses Award 2010**

(AM2016/31)

VICE PRESIDENT CATANZARITI

SYDNEY, [DATE] [MONTH] 2018

*4 yearly review of modern awards – Nurses Award 2010 – meal breaks.*

A. Further to the decision issued on 3 December 2018<sup>1</sup> it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Nurses Award 2010*<sup>2</sup> be varied by:

1. By deleting clause 27.1(a) and inserting in lieu:

(a) An employee who works in excess of five hours will be entitled to an unpaid meal break of not less than 30 minutes and not more than 60 minutes. Such meal breaks will be taken between the fourth and sixth hour after beginning work, where reasonably practicable. Provided that by agreement of an individual employee, an employee who works shifts of six hours or less may forfeit the meal break.

B. This determination comes into effect on [insert date].

VICE PRESIDENT

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<sup>1</sup> [2018] FWCFB 7347.

<sup>2</sup> MA000034.