



Australian Federation of Employers and Industries (AFEI)
AM2014/285: Submission addressing the exposure draft:
*Social, Community, Home Care and Disability
Services Industry Award 2016*

8 July 2016

AFEI
Australian Federation of
Employers & Industries

8 July 2016

In accordance with the Statement and Directions of President Ross on 10 May 2016, the Australian Federation of Employers and Industries (AFEI) makes the following submissions addressing the exposure draft ***Social, Community, Home Care and Disability Services Industry Award 2016*** — AM2014/285.

1. Removal/amendment of provisions relevant to the Equal Remuneration Order

Certain terms currently in the Modern Award have been removed/amended in the exposure draft resulting in incongruity with references to the Award in the Equal Remuneration Order [PR525485], which applies to certain employers and employees covered by the Award.

Provisions included in Schedules A, B and C of the current Modern Award are material in determining which employees are eligible for an equal remuneration payment (as a result of Clauses 4 and 5 of the Equal Remuneration Order). Accordingly, AFEI does not support the removal of Schedule A from the exposure draft or the current arrangement of Schedules in the exposure draft.

The Modern Award's current definitions for the following terms have been omitted in the exposure draft, and should be reinserted given its relevance to the Equal Remuneration Order:

- relevant transitional minimum wage instrument
- award-based transitional instrument

2. Definitions (Clause 3 and 4)

Definitions for 'Crisis assistance and supported housing sector,' 'Social and community services sector,' 'Home care sector' and 'Family day care scheme sector' are included in both Clause 3 and Clause 4. This duplication is unnecessary and serves to make the Award a lengthier document.

3. Facilitative Provisions (Clause 7)

The table is incorrectly listed as Clause 5.2, it should be Clause 7.2. It appears this is a typographical error.

The facilitative provisions in Clause 13.1(b) should be for either an individual employee, or a majority of employees.

4. Full time employment (Clause 9)

The clause should be clarified that a full-time employee is engaged to work 38 ordinary hours per week, or an average of 38 ordinary hours per week.

5. Part time employment (Clause 10)

This clause should be clarified that a part-time employee is engaged to work less than 38 ordinary hours per week or an average of less than 38 ordinary hours per week...'

6. Casual employment (Clause 11)

The words 'and is not a part-time or full-time employee' in clause 11.1 are unnecessary.

7. Progression (Clause 12.4)

In response to the Fair Work Commission's enquiry, AFEI agrees that the wording should be 'each pay point within the level.'

8. Ordinary hours of work (Cl.13) and Rostering (Cl.14)

Provisions for broken shifts, sleepovers, 24 hour care, and excursions ought to be under the heading for 'ordinary hours' and not 'rostering.'

9. Span of hours (Cl. 13.2)

For the avoidance of doubt, this clause should clarify that it does not apply to 24hr care, Excursions, and Sleepovers.

10. Rosters (Cl. 14.3)

Clause 14.3(d): The Commission asks whether 'mail' and 'facsimile' should remain as methods of communicating roster changes. These methods should remain available.

Clause 14.3(e): It is unnecessary to include a definition for 'relieving staff.' There is no indication that the meaning of this word has been contentious.

11. Broken shifts (Cl. 14.4)

Time spent performing a sleepover would not be a 'shift' for the purpose of payment for a broken shift. The 'broken shift' and 'sleepover' provisions deal with separate arrangements of work, and are to be read in isolation from each other.

12. Excursions (Clause 14.7)

While an employee working on an Excursion receives the sleepover allowance, other provisions of Clause 14.5 do not apply to an employee working on an Excursion.

13. Heat Allowance (Clause 17.2(c))

Clause 17.2(c) would appear to have nominal application as a result of the requirement to be employed at the current place of work prior to 8 August 1991.

14. Clothing and equipment (Clause 17.3(a))

As a result of the introduction of additional sub-headings in Clause 17.3, it may not be sufficiently clear that the clause needs to be read as a whole in order to understand alternative options available to an employer (that is, that uniforms/laundry services may be provided or alternatively an allowance may be provided). For clarity Clause 17.3(a)(i) should state *'subject to sub-clause 17.3(c)(a)(iii) and (iv), where the employer requires...'*

15. Meal allowances (Clause 17.3(b))

For clarity:

- Clause 17.3(b)(i) should state *'subject to clause 17.3(iii), where an employee is required...'*
- Clause 17.3(b)(iii) should also refer to Clause 17.3(c)(b)(ii) and (iv), as these relate to circumstances where the allowance is paid.

16. Rest period after overtime (Clause 19.3)

It is AFEI's view that the current wording in Clause 28.3 of the Award should be retained. It is noted that:

- The exposure draft has changed the wording in from *'An employee, other than a casual'* (in Clause 28.3 of the current award) to *'a full time or part-time employee.'*
- The exposure draft is unclear that the clause refers to the recommencement of 'ordinary hours' on the next day.
- The wording 'within the period of absence' in Clause 19.3(a)(ii) and (b)(ii) is vague, and unclear that it relates only to the period during which the employee is undertaking a 10 hour break between shifts.