



Business SA Submission

4 yearly review of
modern awards – *Plain
language – General
Retail Industry Award*

**(AM2016/15, and
AM2014/270)**

2 November 2017

1. Business SA provides this submission in response to a direction from President Ross during a 26 October 2017 conference for the plain language re-draft of the *General Retail Industry Award 2017*. During that conference President Ross directed parties to consider how the term 'township', as appears in clause 20.5 of the *General Retail Industry Award 2010 (Retail Award)* and clause 23.6(a) of the plain language exposure draft (**PLED**) of the *General Retail Industry Award 2017*, should be interpreted.

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2. Business SA has consulted a selection of our members who employ people under the Retail Award regarding the ambiguous reference to 'township' in clause 20.5 of the current award. Members were selected based upon their size and likelihood to have required an employee transfer from one place to another.
3. None of the members consulted reported they had utilised clause 20.5 for an award covered employee. Where members reported an employee had been relocated, this was at the request of the employee - a 'sea change' for example, rather than a relocation imposed by the employer. Employees had also relocated for the purpose of a promotion, however these reported instances were all in relation to senior managers who were not employed under the Retail Award.
4. As part of our consultations we also invited members to comment on what they felt a fair interpretation of 'township' would be for current purposes. We note President Ross' observation of 26 October 2017 that:

[T]ransferring from one suburb to another doesn't seem to be a sort of reasonable proposition that would attract removal expenses. I just can't conceive of an employer requiring an employee to move suburbs. Many employees live some distance from where they work now.¹

This observation was reflected in our member consultations. A number had employees who commuted a considerable distance and for whom a relocation allowance based on movement to a different suburb would be impractical.
5. While suggestions were mixed as to how this clause should be interpreted in the current context, a physical distance in kilometres was suggested as a method of enlivening the entitlement. The difficulty with this approach however would be that concepts of distance (and the associated time impact based on relocating that distance) vary. For example, travelling a distance of 50 kilometres through a metropolitan area to relocate would presumably impact a person more acutely than travelling the same distance in a regional area with quieter roads and much higher speed limits.
6. Our consultations suggest this clause is rarely, if ever, applied in the context of an employee covered by the Retail Award. While definition and clarification would be preferable, we have been unable to determine an appropriate basis upon which to define 'township'.
7. Business SA proposes this issue may be progressed by amending clause 23.6(a) of the PLED to clarify that the clause operates only where an employee is directed by their employer to relocate from one residence to another.

¹ Transcript of Proceedings, Plain language re-drafting – *General Retail Industry Award 2010*, 26 October 2017, PN323.

Reference to 'township' would be removed and replaced by the specific direction of the employer. Such an approach is consistent with similar clauses in other awards. This will ensure that where an employee is directed to carry out an action incurring cost, such as moving house, they are reimbursed, whilst also ensuring the term 'transfer' for the purposes of clause 23.6 does not extend to transfers initiated/requested by the employee. To achieve this, we propose the following wording: 'Clause 23.6 applies if an employer *directs an employee to transfer* from one *residence* to another.'

8. This submission is intended to progress discussions and Business SA retains the right to reconsider our position as discussions continue.

Conclusion

Business SA thanks the Fair Work Commission for accepting this submission.

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