



Fair Work Commission: 4 Yearly Review of Modern Awards

SUBMISSIONS

**CLERKS - PRIVATE SECTOR AWARD 2015
PLAIN LANGUAGE AWARD SPECIFIC CLAUSES
(AM2016/15 & AM2014/219)**

22 FEBRUARY 2018

**AUSTRALIAN BUSINESS INDUSTRIAL
- and -
THE NSW BUSINESS CHAMBER LTD**

1. BACKGROUND

- 1.1 These submissions are filed on behalf of Australian Business Industrial (**ABI**) and the NSW Business Chamber Ltd (**NSWBC**) and relate to:
- (a) The *Clerks-Private Sector Award 2017 (Award)* exposure draft published on 1 December 2017;
 - (b) The Statement issued in respect of the Award by the Fair Work Commission on 19 January 2018 ([2018] FWC 411) (**Statement**); and
 - (c) The revised summary of parties' submissions in relation to the Award released on 19 January 2018.
- 1.2 ABI is a registered organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth) and has some 4,200 members.
- 1.3 NSWBC is a recognised State registered association pursuant to Schedule 2 of the *Fair Work (Registered Organisation) Act 2009* (Cth) and has some 21,000 members.
- 1.4 ABI and NSWBC have a material interest in the Four Yearly Review of the Award given that both entities represent numerous employers who are covered by the Award.
- 1.5 The same numbering as the revised plain language exposure draft has been used throughout these submissions, except where otherwise indicated.

2. SUBMISSIONS IN RESPECT OF THE REVISED EXPOSURE DRAFT

- 2.1 In accordance with the Statement, our clients support:
- (a) further consultation in respect of the amended note in Schedule B; and
 - (b) further consultation in respect of the definition of 'minimum hourly rate' in clause 2.
- 2.2 Our clients do not oppose:
- (a) The re-drafted clause 4.1;
 - (b) The definition of 'clerical work' in clause 2;
 - (c) The re-drafted clause 11.1;
 - (d) The re-drafted Schedule A;
 - (e) The re-drafted clause 13.5 and the associated example;
 - (f) The re-drafted clause 13.6;
 - (g) The re-drafted clause 14.2;
 - (h) The re-drafted clause 14.6; and
 - (i) The re-drafted clause 15.4.
- 2.3 Our clients do not support:
- (a) The new clause 4.3(a) and instead suggest the words '*modern award*' be replaced with '*industry award*';
 - (b) The addition of more modern awards to the list at clause 4.4, or the inclusion of the words '*for employees covered by the award*' in the clause itself;

- (c) The proposed amendment to clause 4.2(a) and instead suggest that it should read:
'if the employer is not covered by another modern award';
- (d) The continuing omission of the words *'as determined by the employer'* from clause 12.2;
- (e) The use of the word *'competencies'* in clause 12.2, as opposed to *'characteristics'*, which is used in Schedule A;
- (f) The re-drafted clauses 25.3 and 25.4 and propose the term *'ordinary hours'* be replaced with *'ordinary rostered hours'* to address this concern;
- (g) The proposed amendment to clause 37.3 to refer only to a *'majority of affected employees'*, rather than *'the employees'* as in the current Award;

3. OTHER PARTIES' SUBMISSIONS

3.1 Having had the benefit of reviewing the submissions of other parties in respect to these proceedings, our clients support:

- (a) the deletion of clause 28.3 and 31.4, on the basis that there is no equivalent provision in the current Award;
- (b) re-drafting of clause 10.1 in the terms suggested by the Australian Industry Group at paragraph 65 of its submission dated 20 February 2018; and
- (c) amending clause 34.3(c) and (d) to clarify that the relevant factor determining the employee's rate of pay while on leave is whether they would have been on day or shiftwork if they were at work.

4. CONCLUSION

4.1 In providing these comments, ABI and NSWBC seek to properly assist the Commission in the discharge of its discretion pursuant to section 156 of the *Fair Work Act 2009* (Cth). If you have any questions in relation to these submissions, please contact Kate Thomson on (02) 4989 1003.



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