



# Business SA Submission

4 yearly review of  
modern awards – *Plain  
language – Clerks –  
Private Sector Award*

**(AM2016/15, and  
AM2014/219)**

13 September 2017

## Introduction

Business SA is pleased to provide this submission in response to the Direction issued by the Fair Work Commission on 17 August 2017<sup>1</sup> in relation to the *Clerks – Private Sector Award*. Business SA is an interested party to this award, we filed submissions on 28 February 2017 concerning the plain language exposure draft for the *Clerks – Private Sector Award (PLED)*.<sup>2</sup> On 7 July 2017 a revised summary of submissions<sup>3</sup> and revised plain language exposure draft (**Revised PLED**)<sup>4</sup> were issued by the Fair Work Commission. We intend to attend the conference before Vice President Hatcher on 15 September 2016. As such, this submission identifies which matters raised in our February submission have been dealt with by the Revised PLED and which matters remain outstanding. All pinpoint references refer to the revised plain language exposure draft unless otherwise specified.

## Outstanding issues

1. Business SA notes many of our submissions have been addressed in the Revised PLED. To assist the Commission, below is a list of the items which we submit remain outstanding. Please see the next section for more detail on these items.
2. Outstanding items:
  - 14;
  - 16;
  - 24;
  - 44;
  - 99;
  - 113;
  - 146; and
  - 153.

## Summary of submissions

3. **Item 10 – Coverage – Excluded awards**
  - 3.1. Business SA's submission has been addressed in the Revised PLED.
4. **Item 11 – Coverage – On-hire**
  - 4.1. Business SA's submission has been addressed in the Revised PLED.
5. **Item 14 – Facilitative provisions – drafting errors**
  - 5.1. Business SA's submission regarding clauses 13.6 and 13.10 in Table 1 – Facilitative provisions has been addressed in the Revised PLED.
  - 5.2. We note a new drafting error in the Revised PLED in Table 1. The row dealing with the monthly pay period facilitative provision directs the reader to clause '0', where it should refer to clause 19.2(b). We note the hyperlink in the Revised PLED sends the reader to the correct clause.
  - 5.3. We also note a drafting error in clause 19.2(c). This clause refers to an agreement made under 'paragraph 0' instead of 'paragraph (b)'.

<sup>1</sup> 4 yearly review of modern awards – *Clerks Private Sector Award 2010* - [Direction](#).

<sup>2</sup> Business SA '[4 yearly review of modern awards – Clerks – Private Sector Award 2010 \(AM2014/219\) – Plain language exposure draft](#)' 28 February 2017 (**February Submission**).

<sup>3</sup> [Summary of submissions – revised – plain language – Clerks Award](#), 7 July 2017.

<sup>4</sup> [Revised plain language exposure draft, Clerks – Private Sector Award 2017](#), 7 July 2017.

**6. Item 16 – Facilitative provisions - Table**

6.1. Business SA is satisfied the Revised PLED addresses our submission regarding reference to clause 29.1(b) (clause 27.1(b) in the PLED) in Table 1.

6.2. Business SA submits our submission regarding reference in Table 1 to clause 32 (clause 30 in the PLED) has remains outstanding. In our February submission, we put forward that the most accurate reference for Table 1 would be to clause 30.1 of the PLED, as that was the actual facilitative provision.<sup>5</sup> The revised Summary of submissions suggested this submission was accepted as the Note response was 'Table 1 updated.' However, Table 1 in the Revised PLED refers to clause 32 in general, rather than clause 32.1 in particular.

**7. Item 19 – Full-time employment**

7.1. Business SA no longer presses this item.

**8. Item 24 – Casual employment**

8.1. Business SA submits our submission regarding clause 11.1 remains outstanding.

**9. Item 28 – Ordinary hours of work (employees other than shiftworkers)**

9.1. Business SA no longer presses our submission regarding clause 13.2.

**10. Item 34 – Ordinary hours of work (employees other than shiftworkers) – spread of hours**

10.1. Business SA's submission regarding clause 13.6(a) has been addressed in the Revised PLED.

**11. Item 37 – Ordinary hours of work (employees other than shiftworkers) – setting ordinary hours by a different award**

11.1. Business SA no longer presses our submission regarding clause 13.7(a).

**12. Item 44 – Rostered days off (employees other than shiftworkers) – Payment of wages under a banking system**

12.1. This issue remains outstanding. Business SA is further considering its position regarding clause 14.7 in the Revised PLED.

**13. Item 53 – Breaks (employees other than shiftworkers)**

13.1. Business SA is satisfied the amendment to the NOTE in clause 15.4 has addressed the concern raised in our February Submission.

**14. Item 61 – Minimum rates – Junior employees**

14.1. Business SA is satisfied the Revised PLED addresses our submission.

**15. Item 74 – Allowances – Vehicle allowance**

15.1. Business SA's submission has been addressed in the Revised PLED.

**16. Item 75 – Allowances – Living away from home allowance**

16.1. Business SA's submission has been addressed in the Revised PLED.

**17. Item 99 – Rest period after working overtime (employees other than shiftworkers)**

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<sup>5</sup> February Submission, [2.3].

- 17.1. This item remains outstanding. While Business SA notes the Revised PLED addresses our submission from February, we prefer the wording proposed the Australian Industry Group (AIG) in February.<sup>6</sup>
- 18. Item 113 – Ordinary hours of work and rostering for shiftwork**  
18.1. This item remains outstanding. We note the Revised PLED addresses our submission, however the wording proposed by AIG is preferable.<sup>7</sup>
- 19. Item 137 – Transport reimbursement for shiftworkers**  
19.1. Business SA no longer presses this submission.
- 20. Item 146 – Schedule A – Classification Structure and Definitions**  
20.1. This issue remains outstanding. Business SA submits classification schedules should not be included in the plain language re-drafting process given the important role these schedules have in determining award coverage.
- 21. Item 147 – Schedule A – Classification Structure and Definitions – Level 1**  
21.1. Business SA is satisfied schedule A.2.1(c) of the Revised PLED adequately reflects the current award.
- 22. Item 153 – Definitions**  
22.1. This issue remains outstanding. We note the definition of ‘clerical work’ has been re-inserted into clause 2 – Definitions, however this definition contains new wording. The Revised PLED’s definition of ‘clerical work’ adds ‘and administrative work of a clerical nature’. This wording does not appear in the definition at clause 3 of the current award and should be removed.

## Conclusion

Business SA thanks the Fair Work Commission for accepting these submissions.

*For further information from Business SA’s policy team, please contact Karen van Gorp, Senior Policy Adviser, or Chris Klepper, Policy Adviser, (08) 8300 0000 or at [karenv@business-sa.com](mailto:karenv@business-sa.com) or [chrisk@business-sa.com](mailto:chrisk@business-sa.com).*

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<sup>6</sup> Australian Industry Group, ‘[4 Yearly Review of Modern Awards – Plain Language Re-Drafting – Clerks – Private Sector Award 2010](#)’ 28 February 2017, [401].

<sup>7</sup> Ibid [458].