

From: Jacki Baulch <jBaulch@professionalsaustralia.org.au>
Sent: Friday, June 19, 2020 10:37 AM
To: AMOD <AMOD@fwc.gov.au>
Cc: Scott Harris <Scott.Harris@guild.org.au>; Sharlene Wellard <swellard@meridianlawyers.com.au>
Subject: AM2020/13 Health Sector Awards - Pandemic Leave -

Dear AMOD Team

Re: AM2020/13 - MA000012 Application to vary Pharmacy Industry Award 2010

I have recently been advised by the Pharmacy Guild of Australia (Guild) that the Application filed on 16 April 2010 by APESMA and other unions with an interest in the Pharmacy Industry Award 2010 to vary the award in relation to pandemic leave did not contain a Draft Order.

Please find attached a Draft Order to vary this Award for pandemic leave. I have already provided the Guild with a copy of this Draft Order and I now write to you to request that you upload the attached to the relevant Commission website.

I apologise for any inconvenience caused. I can only assume that because both the AMOD team and myself had 'technical' difficulties in getting the original application to properly convert to a format required by the Commission that the Draft Order originally attached to the application filed on was inadvertently deleted.

Please contact me if there are any difficulties with the converting the attached Application to Vary.

Thanks for your assistance.

Regards
Jacki Baulch

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Principal Industrial Officer



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Professionals Australia is the trading name of the Association of Professional Engineers Scientists and Managers Australia (APESMA)

PRXXXX

FAIR WORK COMMISSION

DRAFT DETERMINATION

Fair Work Act 2009

s.157—FWC may vary etc. modern awards if necessary to achieve modern awards objective

Health Sector Awards – Pandemic leave

(AM2020/XX)

PHARMACY INDUSTRY AWARD 2010 MA000012

JUSTICE ROSS, PRESIDENT

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MELBOURNE, XX XXXX 2020

Schedule X—Additional measures during the COVID-19 pandemic.

A. Further to the decision [2020 FWCFB XXXX] issued by the Full Bench of the Fair Work Commission on XX XXX 2020, the above award is varied as follows:

1. By deleting clause X.1 in Schedule X and replacing it with the following:

X.1 Subject to clauses X.2.1(d) and X.2.2(c), Schedule X operates from 8 April 2020 until 28 September. The period of operation can be extended on application.

2. By deleting clause X.2.1 in Schedule X and replacing it with the following:

X.2.1 Paid pandemic leave

(a) Subject to clauses X.2.1(b), (c) and (d), any employee is entitled to take up to 2 weeks' leave on each occasion the employee is:

- (i) required by government or medical authorities to self isolate;
- (ii) required by their employer to self isolate;

- (iii) required on the advice of a medical practitioner to self isolate; or
- (iv) is prevented from working by measures taken by government or medical authorities in response to the COVID-19 pandemic.

(b) Except where X.2.1(a)(ii) applies, the employee must give their employer notice of the taking of leave under clause X.2.1(a) and of the reason the employee requires the leave, as soon as practicable (which may be a time after the leave has started).

(c) Except where X.2.1(a)(ii) applies, an employee who has given their employer notice of taking leave under clause X.2.1(a) must, if required by the employer, give the employer evidence that would satisfy a reasonable person that the leave is taken for a reason given in clause X.2.1(a).

(d) A period of leave under clause X.2.1(a) must start before 28 September 2020, but may end after that date.

(e) Leave taken under clause X.2.1(a) does not affect any other paid or unpaid leave entitlement of the employee and counts as service for the purposes of entitlements under this award and the NES.

(f) For an employee other than a casual, leave taken under clause X.2.1(a) shall be paid at the employee's base rate of pay for the employee's ordinary hours of work in the period of leave.

(g) For a casual employee, pay for leave taken under clause X.2.1(a) shall be calculated on the average weekly pay received by the employee in the previous 6 months, or where the employee has been employed for less than 6 months, for the duration of their employment.

3. By inserting the following in Schedule X, immediately above "NOTE 1" to clause X.2.2:

X.2.3 Special leave where an employee contracts COVID-19

- (a) If an employee is diagnosed with COVID-19, the employee must inform their employer of that diagnosis.
- (b) Upon being informed of an employee's diagnosis with COVID-19, the employer must allow the worker to be absent from work, and not perform work, without loss of pay, until the employee has had medical clearance to return to work.
- (c) For a casual employee, pay for leave taken under clause X.2.3(b) shall be calculated on the average weekly pay received by the employee in the previous 6 months, or where the employee has been employed for less than 6 months, for the duration of their employment.

(d) An employee shall not be required an employee to take personal leave because of a COVID-19 diagnosis prior to exhausting their entitlement to special leave under this clause.

4. By deleting the reference to “clause X.2.1 or X.2.2” in “NOTE 1” and replacing it with a reference to “this Schedule”

5. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation on XX XXXX 2020. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect in relation to a particular employee until the start of the employee’s first full pay period that starts on or after XX XXXX 2020.

PRESIDENT