



10 March 2020

AM2019/17 - 4 YEARLY REVIEW OF MODERN AWARD – FINALISATION OF EXPOSURE DRAFTS & VARIATIONS DETERMINATIONS – TRANCHE 1

Background

- 1 This submission is made following the Fair Work Commission (**'Commission'**) statement [2020] FWC 979 of 26 February 2020.
- 2 In accordance with the directions at [8], the Pharmacy Guild of Australia (**'Guild'**) files this submission relating to Pharmacy Industry Award (**'Award'**).

Findings

- 3 The Guild has reviewed the tracked changes document and notes the following points for the Commission's consideration:
 - 3.1 The Guild has formed the opinion on review that the clause 10.1 sentence structure is awkward and could be reworded to flow more concisely. The suggested changes highlighted below would be:
 - (a) "Clause 10.1 An employee who is engaged to work for ~~fewer ordinary hours than~~ **less than 38 ordinary hours** per week (or 76 over 2 consecutive weeks) and whose hours of work are reasonably predictable, is a part-time employee."
 - 3.2 It is suggested that following red highlighted words are reinserted into clause 10.5 to provide clarity:
 - (a) "10.5 . Any agreement under clause 10.4 must state that any variation agreed by the employer and the employee to any of the matters mentioned in clauses 10.4(a) to 10.4(d) must be in writing and may be of a temporary **(eg single shift or rostered period)** or permanent nature."
 - 3.3 It is suggested the clause 10.7 and 11.2 utilise the same terminology:
 - (a) 10.7 An employer must roster a part-time employee on any shift for a minimum of 3 consecutive hours.

- (b) 11.2 ~~The minimum number of hours for which a casual employee may be rostered to work on any day is~~ **An employer must roster a casual employee on any shift for a minimum of 3 consecutive hours.**
- 3.4 It is suggested that the red highlighted sentence is removed from clause 11.7(q) as not necessary as the requirement has been in effect for previous 12 months:
- (a) (q) An employer must provide a casual employee, whether a regular casual employee or not, with a copy of the provisions of clause 11.7 within the first 12 months of the employee's first engagement to perform work. ~~In respect of casual employees already employed as at 28 February 2019, an employer must provide such employees with a copy of the provisions of clause 11.7 by 28 March 2019.~~
- 3.5 Link error in clause 14.3
- (a) "14.3 At the written request of the employee, the employer and the employee may agree to rostering arrangements that are different to those in ~~clause 0~~ clause 14.1."
- 3.6 Spacing error in clause 16.5(b)
- (a) "(b) This award incorporates the terms of Schedule E to the Miscellaneous Award 2010 as ~~at~~ **at 1** July 2019. For that purpose, any reference to "this award" in Schedule E to the Miscellaneous Award 2010 is to be read as referring to the Pharmacy Industry Award 2010**2020** and not to the Miscellaneous Award 2010."
- 3.7 Clause 17 NOTE and NOTE 2 – appears to be duplication of the same obligations, it is suggested that NOTE 2 is removed.
- 3.8 Link error in clause 21.2(e)
- (a) "(e) outside the rostering arrangements specified in clause ~~0~~ **14** (Rostering arrangements—full-time and part-time employees)."
- 3.9 Clause 21.3 missing reference to clause 10.5
- (a) "21.3 An employer must pay a part-time employee at the overtime rate for each hour worked in excess of the number of hours that the employee has agreed to work under clauses 10.4, **10.5** and 10.12 (Part-time employees**employment**)."
- 3.10 Table 5 insert reference to hourly in Column 2 description title

- (a) “% of minimum **hourly rate**”
- 3.11 Clause 23 NOTE - Insert ‘hourly’
- (a) “NOTE: Where an employee is receiving over-award payments such that the employee’s ~~base rate of pay~~ minimum **hourly rate** in clause 23 and 23.3 is higher than the rate specified under this award, the employee is entitled to receive the higher rate while on a period of paid annual leave (see sections 16 and 90 of the Act).”
- 3.12 Clause 23.3 Annual leave loading reference [2019] FWC 8582 statement on terminology
- 3.13 Clause 32.1 Notice of termination by an employee NOTE – on discussion with employers where multiple questions on what are the additional requirements were asked including commentary on ‘why are not these terms outlined in the award instead looking in other documents’. It is suggested the highlighted points are included:
- (a) “NOTE: The notice of termination required to be given by an employee is the same as that required of an employer except that the employee does not have to give additional notice based on the age of the employee (**over 45 years) and at least 2 years continuous service.**”
- 3.14 Schedule B Table heading Descriptive
- (a) Difference in terminology between B1.1 and B1.2 heading – use of similar descriptions
 - (b) Difference in terminology between B2.1 and B2.2 heading - use of similar descriptions
- 3.15 Schedule C requires updating of identifying allowance clauses at C.1.1 and C.2.1.
- 3.16 Schedule G proposed variation to payment terminology
- 4 For your consideration.

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