

IN THE FAIR WORK COMMISSION

Matter No: AM2023/21

**Modern Awards Review 2023 – 2024: Making Awards Easier to Use**

**UNITED WORKERS UNION – SUPPLEMENTARY SUBMISSION ON THE *CHILDREN'S SERVICES AWARD 2020***

1. The United Workers Union (“**UWU**”) refers to the supplementary submission in relation to the *Children's Services Award 2020* (“**CS Award**”) made by Australian Industry Group (“**AIG**”) on Wednesday 3 April 2024. The UWU makes the following brief submission in response to AIG’s proposed variation in relation to notice of roster changes for part-time employees (at [7]-[12] of its submission and [31]-[34] of its draft determination).
2. The UWU understands that AIG proposes to vary the CS Award by deleting the current clause 10.4(d)(iii) and replacing it with an alternate clause that would enable employers to continue to vary the roster of a part-time employee without seven days’ notice, when there has been an emergency outside of the employer’s control **but to also allow a unilateral variation to occur** where coverage is required for another employee’s absence.
3. Currently, an employer who requires a part-time employee to attend work on a day when that employee would not ordinarily be working may enter that arrangement by agreement with the employee (pursuant to clause 10.4(d)(i) of the CS Award). The variation that has been proposed by AIG removes the requirement for agreement between employer and employee, and enables the employer to direct the employee to

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attend work on a day when the employee would not normally be rostered. As such, it removes the ability of the employee to decline to work on a day outside their usual roster, and exposes the employee to potential disciplinary action or termination of employment if the employee does not follow a direction to attend work.

4. Having certainty around days and hours of work is an important element of part-time employment, which is recognised in clause 10.4(b)(ii) and clause 10.4(c) of the CS Award. Having this certainty enables part-time employees to plan their outside-work commitments, including their responsibility to care for children and other members of their families. A part-time employee may have strong reasons relating to their caring responsibilities for needing to decline to work on a particular day outside their roster. Outside of a genuine emergency, the part-time employee should be able to do so, without being exposed to the potential consequences of refusing a direction to attend work. This entitlement is currently afforded to part-time employees by clause 10.4(b)(iii). The AIG's proposed variation would remove it.
5. The UWU notes the AIG's justification for its proposed variation as being the need to ensure that the minimum child-to-staff ratios required by the National Quality Framework are not jeopardised by staff absences. However, the AIG submits no evidence to indicate that early childhood centres are currently struggling to meet these ratios, under the existing Award provisions for part-time employees. The UWU's experience is that centres requiring cover for an absent employee at short notice currently either seek agreement with a part-time employee to, for example, take up the offer of an additional shift (if it is convenient and possible for them to do so), or offer an additional shift to a casual employee. Based on that experience, the UWU's view is that the variation sought by AIG is not required to enable centres to meet their minimum child-to-staff ratios.

6. As the AIG's proposed variation diminishes current employee entitlements, with no justification supported by evidence, the UWU's view is that it is outside the scope of the Making Awards Easier to Use stream of the Modern Awards Review 2023 – 2024.

**Filed on behalf of the  
United Workers Union**

**8 April 2024**