



STATEMENT

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards

(AM2014/1)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 6 MAY 2016

Plain language modern awards – outcome of plain language modern awards pilot and further plain language activities.

Background

[1] A [Statement](#) issued on 22 September 2015 indicated that the Commission would conduct a pilot to produce a plain language draft of the Pharmacy Industry Award as part of AM2014/209.

[2] A [report](#) on the Pilot has now been published on the AM2014/209 page of the Commission's website.¹ The report provides background information on the scope and conduct of the Pilot and the findings from the Pilot. The plain language draft of the Pharmacy Industry Award is attached to the report.

[3] A conference was held on 27 April 2016 with parties to AM2014/209 and [directions](#) were issued for parties to make submissions on the plain language draft and to identify any substantive issues relating to the Pharmacy Industry Award that remain to be resolved.

[4] In addition to plain language redrafting of award-specific provisions of the Pharmacy Industry Award, the Pilot also involved plain language redrafting of provisions that are common to most modern awards, including:

- Award flexibility
- Consultation
- Dispute resolution; and
- Schedules dealing with the National Training Wage and Supported Wage System.

[5] A statement will be issued shortly providing further information on these redrafted provisions and providing an opportunity for all interested parties to comment.

[6] Standard or common provisions not included in the Pharmacy Industry Award, such as the School-based apprentices schedule, will be redrafted in plain language and will be the subject of consultation with all interested parties.

Preparation of further plain language drafts

[7] Plain language drafting, supported by appropriate consultation processes, can make modern awards simpler and easier to understand, consistent with s.134(1)(g) of the *Fair Work Act 2009* (Cth).

[8] The Commission now proposes to prepare plain language drafts of award-specific clauses in a number of other modern awards.

[9] The following Group 3 and Group 4 modern awards have been selected for the first tranche of plain language re-drafting activities:

Group 3	<i>Clerks – Private Sector Award 2010</i>	[AM2014/219]
Group 4	<i>General Retail Industry Award 2010</i>	[AM2014/270]
	<i>Hospitality Industry (General) Award 2010</i>	[AM2014/272]
	<i>Restaurant Industry Award 2010</i>	[AM2014/284]

[10] These modern awards have been selected for plain language redrafting based on an assessment of the level of award reliance among employers and employees in the industries covered by the instruments. Retail trade and Accommodation and food services are the two industries with the most employees who receive award rates, between them accounting for a third of all award-reliant employees. A large number of award reliant employees are also found in the Administrative and support services industry. Modern awards in the Health care and social assistance industry may also be considered for plain language re-drafting, given the high levels of award use and reliance observed in this industry.²

[11] In selecting the modern awards to be redrafted in plain language particular weight has been given to award reliance among small businesses (those with fewer than 20 employees), on the basis that these organisations are less likely to have a dedicated internal human resources function to assist with the interpretation of awards. Tables 1 and 2 set out data from the Fair Work Commission’s *Award Reliance Survey 2013*, on award reliance in small non-public sector organisations.

Table 1: Modern awards used by small organisations (top 4)

Modern award	Percentage of award-reliant organisations using award (%)
<i>General Retail Industry Award 2010</i>	16.0
<i>Clerks – Private Sector Award 2010</i>	14.9
<i>Hospitality Industry (General) Award 2010</i>	12.0
<i>Building and Construction General On-Site Award 2010</i>	8.2

Source: Fair Work Commission, Award Reliance Survey 2013

Table 2: Modern awards used in small organisations by percentage of award-reliant employees (top 4)

Modern award	Percentage of award-reliant employees covered by award (%)
<i>Hospitality Industry (General) Award 2010</i>	17.9
<i>General Retail Industry Award 2010</i>	15.8
<i>Restaurant Industry Award 2010</i>	6.8
<i>Clerks – Private Sector Award 2010</i>	5.8

Source: Fair Work Commission, Award Reliance Survey 2013

[12] The above information suggests that the four modern awards selected will have the potential to be of most benefit to employers and employees who are directly affected by a modern award.

[13] The number of modern awards to be selected for plain language redrafting will be dependent on the resources available to the Commission. Consideration will be given to preparing plain language drafts for further modern awards later in 2016 and early 2017. In particular, as a matter of efficiency, other modern awards that are similar to awards that have been redrafted in plain language may also be subject to plain language redrafting.

Next steps

[14] Interested persons are invited to comment on the four modern awards selected for redrafting in plain language (see paragraph [9] above). Submissions that propose additional modern awards to those selected should be accompanied by reasons and any supporting data or factual material. Written comments should be sent to amod@fwc.gov.au by **Friday 20 May 2016**.

PRESIDENT

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¹ The report from the Pilot is available at: <https://www.fwc.gov.au/sites/awardsmodernfouryr/AM2014209-report-plainlanguage-FWC-210416.pdf>

² ABS, *Employee Earnings and Hours*, Australia, May 2014, Cat. No. 6306.0