



IN THE FAIR WORK COMMISSION

Matter No: AM2014/1

Title: 4 yearly review of modern awards

SUBMISSIONS ON PROPOSED PLAIN LANGUAGE DRAFTS OF AWARDS

Friday, 20 May 2016

Filed on behalf of:	Health Services Union		
Filed by:	Leigh Svendsen Senior National Industrial Officer	Mobile:	0418 538 989
Address:	Suite 405, 454 Collins St, Melbourne 3000		
Phone:	03 9020 1870	Email:	leighs@hsu.net.au

HSU National

Suite 408, 454 Collins Street Melbourne VIC 3000
PO Box 336 Collins Street West, Melbourne VIC 3000
(03) 9020 1877 | hsu@hsu.net.au | www.hsu.net.au | ABN 68 243 768 561



Introduction

1. The Health Services Union [HSU] makes these submissions in response to the Statement issued by the President on 6 May 2016¹ regarding the outcome of the plain language modern awards pilot and further plain language activities.
2. The HSU supports the intent underlying the plain language project and the development of awards which are easier to understand. The HSU understood the primary reason for pilot project redrafting the Pharmacy Industry Award [PIA] into plain language was to ensure the terms were easier to understand and therefore more accessible. If this is not the aim of an expanded process then the HSU submits the process should not continue.
3. The concerns of the HSU, and other union parties, in relation to the PIA process are contained in the joint submissions relating to AM2014/209.

Process

4. The HSU submits that prior to the commencement of drafting plain language versions of other awards the Commission should engage in broader consultations solely concerning the process.
5. The Commission has clearly stated on several occasions there is no intention to vary the entitlements as a consequence of the various iterations, exposure or plain language versions, of the award[s]. in particular the Statement² of Justice Ross on 8 December 2014 and the notes preceding the Exposure Draft that:

‘The exposure drafts do not incorporate any substantive changes and do not represent the concluded view of the Commission on any issue’ and ‘This exposure draft does not seek to amend any entitlements under the Pharmacy

¹ [\[2016\] FWC 2837](#)

² [2014] FWC 8837, 8 December 2014



award but has been prepared to address some of the structural issues identified in modern awards.'

6. We also note the Statement³ of Justice Ross issued on 22 September 2015 that

*[3] The Pilot will involve the Commission engaging the services of a plain language expert to redraft the Pharmacy Award. **The expert will be instructed to redraft clauses without altering their legal effect.** The plain language draft will then be user-tested by individuals covered by the award.*

(Emphasis added)

7. There have now been at least five drafts of the Pharmacy Industry Award, additional drafts due to the plain language project, released as part of the 4 yearly award review, and in addition to the current Award. As a result, the legal effect of some clauses have changed and there has been a subsequent erosion of entitlements.

8. The erosion is a consequence of the process in the PIA arising, in the HSU submission, from a failure to finalise submissions in response to first the exposure draft and then the initial plain language version specifically identifying changes to entitlements. This only serves to heighten anxiety about the proposed plain language project.

9. The statement⁴ issued by President Ross on 6 May 2016 states that:

[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).

10. The HSU supports the proposal for appropriate consultation and suggests that the process for an award to undergo a plain language redrafting process must provide for finalization of technical and drafting matters before moving on to any process relation to substantial changes or variations from interested parties.

³ [2015] FWC 6555, 22 September 2015

⁴ [ibid](#)



11. Further if there is an exposure draft available it should be scrapped before the plain language draft appears and all FWC comparison tables, submissions and responses by interested parties should relate to the plain language version against the current award.

Proposed awards

12. The HSU has no comment in relation to the awards chosen to undergo plain language redrafting.
13. The HSU supports the comments and concerns raised by the SDA in their submissions concerning the plain language drafting process for further awards.



Leigh Svendsen
Senior National Industrial Officer

