



## IN THE FAIR WORK COMMISSION

Matter No: AM2014/204

Title: Modern Awards Review 2014

Health Professionals and Support Services  
Award

## SUBMISSIONS IN REPLY EXPOSURE DRAFT

4 March 2015

<b>Filed on behalf of:</b>	<b>Health Services Union</b>		
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1. HSU makes these comments in reply to the submissions made and filed in late January concerning the Exposure Draft of the Health Professionals and Support Services Award and in accordance with the revised directions issued by the Commission in their statement on the 8 December 2014<sup>1</sup>
2. HSU relies on our previous submissions and the Full Bench Decision <sup>2</sup> of 23 December 2014.
3. Several matters raised in the submissions on the exposure draft conflate the wording of the exposure draft with proposed variations to the award. HSU has attempted to comment only on changes to wording as a consequence of new draft wording as opposed to the proposed variations. It is intended to leave responses to variations in the first instance to the conference process and later to submissions.

## Common Health Professionals

4. The positions in relation to the Schedule B list of Common Health Professionals are varied. HSU reiterates the position that the list is indicative not exhaustive.
5. Health Professionals is a broad term, in it's entirety it could technically include any person working in a health or welfare field that is qualified according to externally applied criteria for that profession. In addition each of the professions is expanding and specialising. There are health professionals, recognised and registered, working in fields or specialities that did not exist 10-20 years ago.

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<sup>1</sup> [\[2014\] FWC 8837](#)

<sup>2</sup> [\[2014\] FWCFB 9412](#)

6. As an example: Medical Imaging – which used to be called simply radiography or X-ray and was practiced by radiographers – now includes Radiographers, Diagnostic Radiographer, General Radiographer, Mammographer, Sonographer, Ultrasonographer, Computer Tomography Technologist (CT tech), Fluoroscopic Technologist, Magnetic Resonance Imaging Technologist (MRI Tech), Theatre Radiographer, Bone Density Technologist, Digital Subtraction Angiographer, Orthopantomographer, Picture Archiving and Communication Systems Administrator (PACS Administrator), Nuclear Medicine Technologists and Radiation Therapists at least.
7. Classification schedules and definitions in modern awards generally provide within the level descriptors and criteria indicative positions/ job titles relevant to that level and for that award. For health professionals this doesn't apply on a level basis. The whole stream applies to health professionals and the level criteria apply based on a range of other factors applicable to most classification structures, such as qualification level, responsibilities, experience etc.
8. In our submission providing an exhaustive list would be extremely difficult even at a point in time. The only generic term used is health professional/practitioner. The intention of the list is indicative only.
9. If the Commission is not convinced by the argument in favour of the list being indicative, HSU believes this matter should be argued further as, in our submission, it is fundamental to the Award cover.

### **Loadings, penalties and others**

10. There are a variety of matters raised in relation to the exposure draft wording that more correctly go to the interpretation of these clauses, proposed changes and /or the variations to the award proposed by various parties. These include the following:
  - a. Span of hours;
  - b. Casual loading;
  - c. Shift penalties;
  - d. Weekend rates;
  - e. Definitions; and
  - f. Overtime
11. HSU submits that several of the matters raised by various parties are in reality the exposure draft drafting more starkly identifying the ambiguity or inconsistency between some of the provisions. These matters are interrelated and directly impact on entitlements.

12. HSU believes that there should be no variations to the wording of any these clauses as a result of the exposure draft until the discussions between the parties either:
  - a. Agree on wording, or
  - b. Find no agreement can be reached.

In our view this will identify the extent these clauses need to be considered formally by the Commission.

13. Further, most of these clauses are the subject of more than one proposal to vary the award, whatever turns out to be the actual entitlement, and HSU makes no submissions in relation to the proposed variations at this stage.

### Penalties and allowances

14. Without commenting further on when and whether shift allowances, weekend rates, overtime and casual loadings are payable, HSU submits that any allowance or loading would not be cumulative but paid in addition to any other allowance or loading.

### Overtime

15. We note a mistake in our submissions of the 28 January 2015 in relation to overtime. HSU believes overtime provisions stand alone on a daily, weekly or fortnightly basis, and that this applies equally to all employees. Where HSU refers to the 'day stands alone' we believe the 'day' constitutes the 'shift' and we acknowledge that this may require either a definition or clarification in the clause.

### Definitions

16. We agree that there are definitional issues in the award. Generally HSU believes these issues arise out of drafting error in the first instance and not specifically as a consequence of the exposure draft. HSU does not believe there should be a decision as a consequence of the ED that deals with these issues.

A handwritten signature in black ink, appearing to read 'Leigh Svendsen'.

Leigh Svendsen  
**Senior National Industrial Officer**