



Jobs Australia

Community Sector Industrial Relations

IN THE FAIR WORK COMMISSION

4 YEARLY REVIEW OF MODERN AWARDS

Submission

AM2014/285

Social, Community, Home Care and Disability Services Industry Award 2010

Response to Exposure Draft

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Introduction

1. Jobs Australia makes this submission in response to the Exposure Draft of the *Social, Community, Home Care and Disability Services Industry Award 2016* published by Fair Work Commission as part of Stage 4 of the Review of Modern Awards.
2. We note that the exposure draft is not intended to amend any entitlements under the 2010 award and so our submissions are confined to reflecting the *status quo* in relation to substantive entitlements.

Clause 2 – Definitions

3. “Sleepover” – Jobs Australia does not oppose the inclusion of a definition at clause 2, but submit that it is unnecessary as the definition in clause 14.5 (a) is sufficient.

Clause 11 – Casual employment

4. Parties are asked to clarify whether the minimum engagement for casual employees undertaking disability services work is covered by clause 11.3 (c).
5. Jobs Australia considers that it is clear that this is the case. Clause 11.3 (a) excludes employees undertaking disability services work and clause 11.3 (b) relates only to home care employees, therefore disability services employees fall within the category of “all other employees” at 11.3(c).

Clause 12 - Classifications

6. Parties asked to clarify what “each level within the level” refers to at clause 12.4.
7. Jobs Australia agrees that it would clarify the clause to refer to “each pay point within the level”.

Clause 14.3 - Rosters

8. Parties are asked to comment on whether “mail” and “facsimile” should be retained at 14.3(d).
9. Jobs Australia submits that although mail and facsimile are less commonly used now, they should be retained as options that may be practicable for some employees.
10. The parties are also asked whether the term “relieving staff” should be defined at 14.3(e).
11. Jobs Australia submits that the meaning is clear and does not need definition. One of the practical purposes of this provision is to facilitate the engagement of relieving staff to cover absent employees where the absence has occurred at short notice and does not fit in the routine rostering process.

Clause 14.4 – Broken shifts

12. The parties are asked whether performance of a sleepover under clause 14.5 constitutes a broken shift.
13. Jobs Australia submits that work performed both before and after a sleepover does not constitute a broken shift.
14. Clause 20.2 (b) provides that a shift is to be worked as one continuous block that “*may include meal breaks and sleepover*”.
15. The effect of clause 20.2 (b) is to define the work contiguous with sleepover to be a single shift, not a broken shift. A sleepover is a break within a shift, like a meal break, but does not end the shift or result in a break between shifts.

16. The sleepover period is a category in its own right and is not a part of a shift. In the event that work is performed during the sleepover, it is overtime and is not shiftwork.

Clause 14.7 - Excursions

17. The parties are asked whether clause 14.7(b)(iii) means that an employee entitled to the allowance at 14.5 (e) is also entitled to the other provisions of clause 14.5.
18. Jobs Australia submits that in this case the employee is entitled only to the allowance prescribed by clause 14.5 (e). The definition of a sleepover at 14.5(a) makes it clear that an excursion is excluded, and therefore the full provisions of 14.5 do not apply. The purpose is simply to pay the allowance set at clause 14.5(e). To prescribe the entirety of clause 14.5 would be unworkable in the context of an excursion.
19. Clause 14.7(b)(iii) only refers to payment of an allowance. It makes no reference to other aspects of sleepover under clause 14.5.
20. Jobs Australia submits that the exposure draft clause 14.7 (b)(iii) should be amended to read: *"Payment of a sleepover allowance in accordance with the provision of clause 14.5(e)."* (Emphasis added).

Clause 17.2(c) – Heat allowance

21. The parties are asked whether clause 17.2(c) is obsolete.
22. Jobs Australia submits that while this clause is probably rarely used, it may still apply and we do not object to its retention in the award.

Clause 19.1 – Overtime rates

23. Parties are asked whether the reference to "Disability Services" should be deleted in clause 19.1(a).
24. Jobs Australia does not agree that "Disability Services" should be deleted from this clause.
25. Disability services employees are classified in accordance with Schedule A and form a subset of Social and Community Services employees. However certain conditions, including overtime differ between disability services employees and other Social and Community Services employees. This reflects the history of pre-reform awards in the disability services sector.
26. The current exposure draft clause 19.1(a) is an accurate reflection of the current award, and should be retained.

Clause 21.2 – Additional leave for certain shiftworkers

27. Parties are asked to comment on the definition of a shiftworker in clause 21.2.
28. Jobs Australia submits that this clause should clarify that the reference to "10 or more weekends" applies to weekends worked in a year of service with the employer.