

Fair Work Commission  
Terrace Tower, 80 William Street  
East Sydney NSW 2011  
By email: [amod@fwc.gov.au](mailto:amod@fwc.gov.au)

23 November 2015

**Re: AM2014/81 AWU submissions on the Exposure Draft for the  
*Pharmaceutical Industry Award 2015***

**Background**

1. These submissions follow the 4 Yearly Review of Modern Awards Full Bench's Decision on 23 October 2015 regarding Group 1C, 1D and 1E awards.
2. This Decision directed parties to file feedback on the revised Exposure Drafts by 4:00pm on 20 November 2015.
3. The Australian Workers' Union's submissions in relation to the Exposure Draft for the *Pharmaceutical Industry Award 2015* (Exposure Draft) as republished on 30 October 2015 appear below.

**Technical issues**

4. Clause 9.1 (b): Clause 24.1 (b) of the current award refers to employees receiving "ordinary time rates" when they work more than 5 hours without a meal break. Clause 9.1 (b) of the Exposure Draft uses the term "ordinary hourly rates".
5. This change could technically result in non-continuous shift workers losing their shift loading when they continue working for more than 5 hours without a meal break. This arises because the definitions of "ordinary hourly rate" or "minimum hourly rate" proposed by the 4 yearly review of modern awards Full Bench do not include shift allowances.<sup>1</sup>
6. A similar issue arose regarding a number of clauses in the Exposure Draft of the *Manufacturing and Associated Industries and Occupations Award 2015*.

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<sup>1</sup> See *4 yearly review of modern awards* [2015] FWCFB 4658 at [42]

The 4 yearly review of modern awards Full Bench developed a definition of “Applicable rate of pay” to deal with these issues in their 23 October 2015 Decision.<sup>2</sup>

7. We submit this same definition of “Applicable rate of pay” could be inserted into the Exposure Draft and clause 9.1 (b) amended accordingly or alternatively the current reference to “ordinary time rates” could be retained.
8. Clause 10.6 (a): This clause has not been amended in accordance with the Full Bench Decision on 23 October 2015<sup>3</sup>. The reference to “A full-time employee engaged on duties...” should be changed to “**An employee** engaged on duties...”
9. Clause 20.2: There is a typo – the provision should read: “...the employer may withhold **from** any money due to the employee on termination...”



Stephen Crawford

**SENIOR NATIONAL LEGAL OFFICER**

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<sup>2</sup> *4 yearly review of modern awards* [2015] FWCFB 7236 at [103]

<sup>3</sup> *4 yearly review of modern awards* [2015] FWCFB 7236 at [171]