

## **Australian Federation of Employers and Industries (AFEI) Submission**

### **Four Yearly Review of Modern Awards: AM2015/1 Family & Domestic Violence Clause Common Issue Proceedings**

September 2016

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1. These submissions are in response to the submissions of the Australian Council of Trade Unions (**ACTU**) dated 1 June 2016 (**the ACTU submissions**).
2. AFEI is a member of Australian Chamber of Commerce and Industry (**the Australian Chamber**) and has had the benefit of reading, prior to them being filed, the submissions of the Australian Chamber made on behalf of its members in response to the ACTU submissions.
3. AFEI agrees with the submissions of the Australian Chamber and concurs that the Commission should conclude that the ACTU claims do not meet the modern awards objective nor contribute appropriately to the setting of a fair and relevant minimum safety net (with the National Employment Standards) (**NES**).
4. Domestic violence leave entitlements should not form part of the standards in modern awards which are intended to provide a minimum safety net. Modern awards set minimums which apply to all employers and employees regardless of their circumstances. Employers are already required to provide significant amounts of paid and unpaid leave to employees, and provide flexibility for a range of circumstances, including family and domestic violence. It is AFEI's view that the various forms of leave provided by the NES, the flexibility provisions in the *Fair Work Act 2009* and modern awards have sufficient provisions which recognise the need for employees to take leave for family reasons.
3. AFEI agrees that the evidentiary case of the ACTU does not support that an employer should bear the cost and impact of such leave.

4. We reject the assertions of the ACTU that the costs of an additional 10 days leave for employers will be offset in employee retention and/or increased productivity. Nor do we accept that leave from work will address or ameliorate the causes of domestic violence or reduce its prevalence. As submitted by the Australian Chamber:

*“As is emphasised in the ACTU’s case, it may well be the case that domestic violence per se has an aggregate economic impact on the society as no doubt all crime does but it would be superficial to suggest that granting additional paid leave would prevent domestic violence such as to change this.”<sup>1</sup>*

5. Certain employees already have the right to request flexible working arrangements when experiencing family violence or providing care and support for this reason. Personal/Carers leave, with no increase in quantum, can be made explicitly available with specifically defined conditions to circumstances surrounding illness or injury to the employee or to a member of the employee’s family or household brought about by a violent act of another person.
6. It is not reasonable to continually add to employee benefits and entitlements when the *Fair Work Act 2009* and the NES already provide substantial coverage through entitlements expressed more generally.

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<sup>1</sup> Australian Chamber submission: 8.73