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Sent: Thursday, 26 July 2018 12:58 PM
To: Chambers - Ross J
Cc: Julian Arndt; Sophie Ismail; 'Ben Rogers'; 'Emily Simpson'; david.johns@natroad.com.au; 'Scott Harris'
Subject: Family Friendly Work Arrangements - Draft Joint Proposal (006)

Dear Associate,

I write in relation to the conference scheduled for later today concerning the award review proceedings dealing with family friendly work arrangements.

Please find attached a document that suggests a small number of minor amendments to the employer party proposal. These suggestions are made in response to the background paper which helpfully identified some unintended deficiencies in the initial draft.

I have travelled to Melbourne for the conference and do not have access to printing facilities. It would accordingly be greatly appreciated if copies could be printed for the benefit of the parties and President. I anticipate that three copies will suffice.

Thank you for your assistance.

Regards,

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Draft Joint Employer Proposal

Provisional Model Term

X Requests for Flexible Work Arrangements

NOTE: Section 65 of the Act provides for certain employees to request a change in working arrangements because of their circumstances as parents or carers. It also sets out formal requirements for making and either agreeing to, or refusing, such requests. Clause X sets out additional processes relating to the handling of such requests.

Application of additional obligations

X.1 This clause applies when an employee who is:

- (a) a parent, or has responsibility for the care, of a child who is of school age or younger; or
- (b) a carer (within the meaning of the Carer Recognition Act 2010),
makes a request under section 65 (1) of the Act for a change in working arrangements.

Obligation to try to reach agreement on a change in working arrangements

X.2 Before refusing a request, the employer must seek to confer with the employee and genuinely try to reach agreement on a change in working arrangements that will reasonably accommodate the employee's circumstances, having regard to the:

- (a) nature of the employee's responsibilities as a parent or carer;
- (b) consequences for the employee if changes in working arrangements are not made;
and
- (c) consequences for the employer if the changes in working arrangements are made.

X.3 If the employer and employee reach agreement on a change in working arrangements that differs from that initially requested by the employee, the employer must set out the agreed change in writing and provide a copy of this agreement to the employee.

Obligation to provide further details if an employer refuses a request

NOTE: *If pursuant to section 65 of the Act, an employer refuses an employee request for a change in working arrangements, the employer must provide an employee with a written response stating that the employer refuses the request and including details of the reason for the refusal. Clause X.4 requires an employer to include additional information in the response.*

X.4 If an employer and employee could not agree on a change in working arrangements under clause X.2 and, pursuant to section 65 of the Act, the employer provides an

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employee written notice refusing a request in accordance with s 65 of the Act, the employer must provide in their written response:

- (a) the business ground or grounds for the refusal and how the ground or grounds apply;
- (b) an indication as to whether or not there are any changes in working arrangements that the employer can reasonably offer the employee so as to better accommodate the employee's responsibilities as a parent or carer; and
- (c) (if the employer can offer such changes) what those changes would be.

Dispute resolution

NOTE: X.5 Disputes about whether the employer has conferred with the employee and responded to the request in the way required by clause X-2, can be dealt with under clause Y—Consultation and Dispute Resolution.

NOTE: The Commission cannot deal with a dispute to the extent that it is about whether the employer had reasonable business grounds to refuse a request under section 65 of the Act, unless the employer and employee have agreed in a contract of employment or other written agreement to the Commission dealing with the matter.

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