



## IN THE FAIR WORK COMMISSION

Matter No: AM2014/207

Title: Modern Award Review 2014  
Nurses Award 2010

## SUBMISSIONS IN REPLY - TECHNICAL AND DRAFTING MATTERS AND SUBSTANTIVE CLAIMS

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## Introduction

1. The Health Services Union (HSU) makes these brief submissions in reply on the Pharmacy Industry Award in accordance with the Statement issued by Justice Ross on 30 March 2015<sup>1</sup> and amended directions issued on 6 May 2015<sup>2</sup>.
2. The HSU relies upon its earlier submissions of 16 July 2015<sup>3</sup> and has read and supports the submissions of the Australian Nursing and Midwifery Federation (ANMF).

## Technical and drafting matters

3. The HSU notes that all submissions concerning technical drafting matters relate to the Exposure Draft released by the Commission 8 December 2014, prior to decisions which have determined some of the matters of concern to all parties, and which have application to the Nurses Award 2010. The HSU requests that further opportunity be provided to the parties to consider a redrafted Exposure Draft in relation to those new or amended clauses.

## Agreed matters

4. The HSU notes and supports the additional agreed matters detailed by the ANMF in its submissions of 21 August 2015<sup>4</sup>.

## Outstanding matters

### Terms – penalty, loading, allowance

5. The Aged Care Employers (ACE) have proposed that the terms ‘loading’, ‘penalty’ and ‘allowance’ (paragraphs [9-11])<sup>5</sup> are effectively interchangeable and therefore only a single term should be used throughout the Award.
6. The HSU opposes this interpretation of the terms but notes the most recent submissions of the ANMF regarding the agreement with the ACE. If this proposal does not finalise the position of the ACE then HSU submits that the meaning and intent of the terms are different and to standardise them would have the effect of changing the meaning and intent of the Nurses Award. Any proposal to vary the use of the above terms should be referred to a Full Bench for determination.

## Substantive claims

7. The HSU makes the following brief responses to the substantive claims of various parties made in their July 2015 submissions.

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<sup>1</sup> [\[2015\] FWC 2194](#)

<sup>2</sup> [\[2015\] FWC 3148](#)

<sup>3</sup> [HSU Submissions 16 July](#)

<sup>4</sup> [ANMF Submissions 21 August](#)

<sup>5</sup> [ACE Submissions 15 July 2015](#)

## Aged Care Employers

8. The ACE has proposed to vary clause 8.2 the rostering provisions, and insert a 'remote communications allowance' in the on-call provisions.
9. The HSU is opposed to both proposals. The HSU contends the variation to clause 8.2 will potentially disadvantage employees and is not required to meet the modern award objectives. And the insertion of the remote communication allowance seeks to reduce the current entitlement under clause 11.3 on-call allowance and 15.5 or 15.6 recall to work entitlements.

## Australian Industry Group

10. The Australian Industry Group [AiG] has proposed a variation to the Meal Break clause 9.1 of the Exposure Draft [refereed to in their submissions<sup>6</sup> as clause 27.1] of the Nurses Award. The HSU understands the AiG proposal to contain similarities to the ANMF proposal. It does not support the AiG proposal in isolation from the additional aspects of the ANMF proposal.

## Australian Nursing and Midwifery Federation

11. The HSU has read the outline submissions<sup>7</sup> and had additional discussions with the ANMF concerning the substantive claims proposed and it supports the following claims:
  - a. insertion of a new allowance for In-charge and leading hands
  - b. improvement to the recall to work and on call provisions
  - c. inclusion of excessive on-call provisions
  - d. insertion of minimum engagement for all employees
  - e. improved rest breaks between rostered work
  - f. improved meal breaks provisions
  - g. variation to the classification definition for nursing assistants
12. The HSU further supports the ANMF proposition that these matters be referred to a separately constituted Full Bench for determination.

## Common matters

13. The HSU notes that that minimum engagement provisions for part-time and casual employees are subject to the AM2014/196 and 2014/197 proceedings, and the ANMF public holiday claim is part of the AM2014/301. The HSU will continue to respond to the submissions and claims in those proceedings as directed by the relevant full Bench.

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<sup>6</sup> [AiG Submissions 15 July](#)

<sup>7</sup> [ANMF Submissions 15 July](#)

## Referral

14. The HSU contends that the opposed substantive claims should be referred to a separately constituted Full Bench to hear all outstanding matters for the Nurses Award.
15. The HSU intends to file substantial submissions in accordance with further directions issued by the relevant Full Bench.



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