

Associate to the President
Fair Work Commission
By email: amod@fwc.gov.au



8 November 2018

Dear Associate,

Re: AM2016/15 Plain Language redrafting – Take Home Pay Order

1. The AMWU provides the following brief submission in response to the [Statement \[2018\] FWC 5810](#) in the above matter, published by the President.
2. The AMWU respectfully requests an extension from the date identified in the statement for the lodgement of submissions from 6 November 2018, to the date of this letter so that this brief submission may be received.
3. The Transitional Schedules which are in every Award ceased to have effect in relation pay periods on or after 1 July 2014.
4. The capacity for employees to be affected and to commence any action in a court continues to exist for a period of time of at least 6 years, under s.544 and s.545(5) of the *Fair Work Act* 2010.
5. The option of seeking a take home pay order from the Commission is a quick and just alternative to seeking orders from the Court (if there are any). It may be unclear to an applicant whether the clause applying to their period of employment in 2014 is still alive in conferring jurisdiction on the Commission to make take home pay orders if the Award at the time they uncovered the issue did not contain that clause.
6. In light of this, the AMWU submits the Commission should retain the take home pay order clause, at least until the statutory limitation period that might apply to orders relating to the transitional Schedules has elapsed. This would be a further period until July 2020.
7. In principle, the AMWU submits that the Commission should not be making any order beyond the Award Modernisation which results in a reduction in take home pay for workers reliant on the minimum safety net. However, the AMWU acknowledges that the Commission has already done so under the current Act in various decisions which have been upheld by the Courts.

Yours sincerely,

Michael Nguyen
Senior Research Officer

Australian Manufacturing
Workers' Union
Registered as AFMEPKIU
National Research Centre
Level 3 133 Parramatta Rd
GRANVILLE NSW 2142
PO Box 160 Granville 2142
Telephone 02 8868 1500