

## IN THE FAIR WORK COMMISSION

**Matter No.:** AM2016/15 Plain Language redrafting – Standard Clauses



### **Submission of the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)**

#### **4 Yearly Review of Modern Awards**

## **COVER SHEET**

### **About the Australian Manufacturing Workers' Union**

The Australian Manufacturing Workers' Union (AMWU) is registered as the "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union". The AMWU represents members working across major sectors of the Australian economy, including in the manufacturing sectors of vehicle building and parts supply, engineering, printing and paper products and food manufacture. Our members are engaged in maintenance services work across all industry sectors. We cover many employees throughout the resources sector, mining, aviation, aerospace and building and construction industries. We also cover members in the technical and supervisory occupations across diverse industries including food technology and construction. The AMWU has members at all skills and classifications from entry level to Professionals holding degrees.

The AMWU's purpose is to improve member's entitlements and conditions at work, including supporting wage increases, reasonable and social hours of work and protecting minimum award standards. In its history the union has campaigned for many employee entitlements that are now a feature of Australian workplaces, including occupational health and safety protections, annual leave, long service leave, paid public holidays, parental leave, penalty and overtime rates and loadings, and superannuation.

**Lodged by:** Michael Nguyen

AMWU National Research Centre

**Address for Service:** Level 3, 133

Parramatta Rd, Granville NSW 2142

Telephone: +61 2 8868 1500

Email: [Michael.nguyen@amwu.org.au](mailto:Michael.nguyen@amwu.org.au)

## Plain Language drafting – Standard Clauses

1. The Australian Manufacturing Workers' Union (AMWU) makes the following brief submission to the Fair Work Commission regarding the draft determinations which insert the finalised Standard Clauses in modern awards.
2. The AMWU supports the:
  - a. Correspondence of the ACTU 5 September 2018,<sup>1</sup>
  - b. Submission of the CFMMEU (Mining and Energy Division) about the Standard Clauses 7 September 2018,<sup>2</sup>
  - c. Submission of the CFMMEU (Mining and Energy Division) about the Black Coal Mining Industry Award 2010 7 September 2018,<sup>3</sup> and
  - d. Submission of the CFMMEU (Manufacturing Division) 19 September 2018 (uploaded 20 September 2018).<sup>4</sup>
3. The AMWU notes that the general intention of the plain language process was not to change the legal effect of the terms. However, during the process the Full Bench did consider jurisdictional issues raised by parties about whether certain terms in their present form were able to be included in modern awards. In these circumstances, there were changes to the legal effect of the Standard Clauses in order to comply with the requirements of the *Fair Work Act 2009*.
4. The draft determinations indicate that cross-references would be updated accordingly.
5. Following their original publication on 24 August 2018,<sup>5</sup> the draft determinations were re-published on 7 September 2018 as revised draft determinations.<sup>6</sup> However, the revised draft determinations linked in the schedule did not address the issue raised in the ACTU 5 September 2018 correspondence and the submission of the CFMMEU (Mining and Energy Division) about the Standard Clauses 7 September 2018.
6. The AMWU proposes that the determinations be revised to reflect the decision of the Full Bench at [258] of 4 yearly review decision – plain language redrafting – standard clauses [2017] FWCFB 5258,<sup>7</sup> that the clause G does not provide a right for the employer to unilaterally transfer an employee.

**End**

**20 September 2018**

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<sup>1</sup> <https://www.fwc.gov.au/sites/awardsmodernfouryr/am201615-corr-actu-050918.pdf>

<sup>2</sup> <https://www.fwc.gov.au/sites/awardsmodernfouryr/am201615-sub-cfmeu-med-070918-b.pdf>

<sup>3</sup> <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201615-sub-cfmmeu-070918.pdf>

<sup>4</sup> <https://www.fwc.gov.au/sites/awardsmodernfouryr/am201615-sub-cfmeumd-multiple-awards-190918.pdf>

<sup>5</sup> <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201615-schedule-draft-determination-standard-clauses.pdf>

<sup>6</sup> <https://www.fwc.gov.au/sites/awardsmodernfouryr/am201615-sched-draftdets-standard-clauses-revised-070918.pdf>

<sup>7</sup> [2017] FWCFB 5258