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4 Yearly Review of Modern Awards - Plain Language Project - AM2016/15

HIA refers to the statement dated 21 August 2017 (**Statement**).¹

HIA submit that the issues raised at paragraph 2 of the Statement go well beyond the intended scope of AM2016/15 and as such no further changes, other than those already determined as part of the plain language re-drafting process, should be made to E.1(c) (or a similar provision).

In a Statement issued in September 2015, the Commission, when outlining the background, scope and process for the pilot plain language redraft of the *Pharmacy Industry Award 2010* reiterated its 'continuing commitment to simplifying and standardising language across modern awards'² highlighting the following from its decision of 13 July 2015³:

'[6] At the outset we would observe that the decision to redraft and modify the language used in modern awards was not taken lightly. This Full Bench has predominantly been dealing with technical and drafting matters, with claims to make substantive variations to modern awards being referred to other Full Benches to consider on their merits based on the evidence presented. Staff of the Fair Work Commission under guidance from the Full Bench have sought to simplify and standardise language across modern awards to remove ambiguity and make awards simpler and easier to understand, consistent with the statutory direction to take into account the "need to ensure a simple easy to understand stable and sustainable modern award system" (s.134(1)(g) of the Fair Work Act 2009 (the Act)).

¹ [2017] FWCFB 4355

² [2015] FWC 6555 at paragraph 8

³ [2015] FWCFB 4658

[7] Some parties have resisted this process but the fact that there has been so much debate about the actual entitlements of an employee under various award provisions confirms the needs for such a review. An award should be able to be read by an employer or employee without needing a history lesson or paid advocate to interpret how it is to apply in the workplace.'

HIA have consistently been supportive of this approach.

The Statement of September 2015 also noted that:

'Importantly, as part of this Pilot:

- *The plain language draft is not intended to change the substantive legal effect of any award term.'*⁴

This position was reconfirmed in a Statement of 13 December 2016, the Commission noting that:

*'We wish to make it clear that the re-drafting process is not intended to change the legal effect of a provision.'*⁵

Plain Language Guidelines now reflect these core insights:

*'The aim of plain language drafting is to make the award as simple and easy to understand as possible without taking away from precision or omitting necessary information or unintentionally changing the legal effect of the award'*⁶

Consequently, HIA respectfully submit that it is not appropriate that the matters raised in the Statement be determined as a part of this plain language re-drafting exercise.

Yours sincerely

HOUSING INDUSTRY ASSOCIATION LIMITED



Melissa Adler
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⁴ [2015] FWC 6555 at paragraph 14

⁵ [2016] FWCFB 8932

⁶ Fair Work Commission Guidelines, Plain language drafting of modern awards at paragraph 2.2