



Associate to the President

Fair Work Commission

By email: [amod@fwc.gov.au](mailto:amod@fwc.gov.au)

21 November 2018

Dear Associate

Re: AM2016/15 – Plain Language Re-Drafting – Facilitative provisions altering spread of hours (**The Alteration Clause**).

I refer to the recent Statement of 13 November 2018 of the Full Bench of the Fair Work Commission (FWC) in relation to the above matter and make the following submissions on the Vehicle Manufacturing, Repair, Services and Retail Award 2010 and the Clerks - Private Sector Award 2010, which are listed in Attachments A and B of the Statement:

**1) The Vehicle Manufacturing, Repair, Services and Retail Award 2010 ( the Vehicle Award)**

- The Motor Trades (Employer) Organisations have a significant interest in the Vehicle Award which is a primary award in the automotive industry.
- The reference to clause 53.1 (c) in Attachment A - which deals with the alteration to the spread of ordinary hours - is actually a reference to the 'manufacturing' section (Section 2) of the Award. It is no longer an issue under the Vehicle Award given the Fair Work Commission decision of 16 August 2016 to remove the manufacturing section from the Vehicle Award and reallocate it under the Manufacturing and Associated Industries and Occupations Award 2010 – [(2016) FWCFB4418].
- There is also no clause 40.1 (c) in the current Exposure Draft of the Award as referred to in Attachment A.

**2) Clerks –Private Sector Award 2010 ( the Clerks Award)**

- In relation to the Clerks Award, which is also an Award of some significance in the automotive industry, the following submission is made in relation to clause 25.2 of the current award (ie) 'the Alteration clause':
- Our understanding is that the flexibility in clause 25.2 was intended to allow for an employee, or a majority of employees, to either start work earlier or to finish later in relation to the spread of ordinary hours prescribed by Clause 25.1 (b) of the Award. In this regard both ends of the spread of ordinary hours would be capable of alteration by up to an hour, by agreement with an employer, to meet the particular needs of an individual employee or a group of employees.



- For example, the spread of hours may be altered from the standard 7am to 7 pm, Monday - Friday, to a 6 am to 6 pm spread, or alternatively, to an 8 am to 8 pm spread of hours for the employee or employees concerned. So, in our view, the spread of hours would move with the alteration, leaving the existing total spread of 12 hours in the award undisturbed.
- It would be highly unlikely that there would have been any intention to allow for an individual employee or a group of employees to start earlier than 7am and to work later than 7pm on the same day as it would probably result in overtime payments applying anyway. So while the start of the spread of hours could commence at 6 am for some employees and finish at 8 pm for others, depending on what agreements were reached, in reality the total spread of hours should remain at 12 hours for each employee.
- Accordingly, we don't see any ambiguity with the current wording of the Award, if applied in a pragmatic manner.
- Lastly, there is a reference to clause 8.2 (b) re the Exposure Draft of the Clerks - Private Sector Award 2010 in Attachment A. This appears to be incorrect and should possibly be a reference to clause 13.4.

Yours Sincerely

A handwritten signature in black ink, appearing to read 'Michael Sheehan', is written over a horizontal dotted line. A solid horizontal line extends from the end of the dotted line to the right.

Michael Sheehan, Motor Trade Association of South Australia.