



22 November 2018

The Hon. Justice Iain Ross AO
President
Fair Work Commission
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Dear President Ross,

AM2016/15 – 4 yearly review of modern awards – Plain language re-drafting – General Retail Industry Award 2010

I write on behalf of the members of the National Retail Association (**NRA**) with respect to the above matter pursuant to the directions of the Full Bench of the Fair Work Commission in [2018] FWCFB 6850, published on 8 November 2018 (**the Decision**).

Paragraph [34] of the Decision invites interested parties to make submissions with respect to the overtime clause as contained within the plain language exposure draft (**PLED**) of the *General Retail Industry Award 2010* (**the Award**) published pursuant to the Decision.

The updated PLED was published on 20 November 2018, and these submissions follow forthwith.

The overtime clause in the PLED is numbered as clause 24. As sub-clause 24.1 (Reasonable overtime) was the subject of a separate matter¹ (and separate submissions from the NRA) handed down on 29 October 2018, these submissions shall deal only with sub-clauses 24.2 to 24.4 inclusive.

Sub-clause 24.2

NRA has no concerns with sub-clause 24.2 in its current form, save for some grammatical errors which we understand will be corrected before any final version of the plain language re-draft of the Award is published.

Sub-clause 24.3

In NRA's view, sub-clause 24.3 is substantially redundant in that paragraphs (a) and (b) thereof merely echo the languages of paragraphs 24.2(a), (b) and (c).

Clause 24 could be further streamlined by deleting paragraphs 24.3(a) and (b), moving Table 10 to be incorporated into clause 24.2, and re-numbering the remainder of clause 24 accordingly.

¹ [2018] FWCFB 6680

Sub-clause 24.4

NRA has notes that clause 24.4 of the PLED replicates the existing terms of clause 29.3 of the Award.

Whilst not having any objection to this, NRA notes that paragraphs 24.4(g) and the note thereto (which refer to requests for flexible working arrangements under section 65 of the *Fair Work Act 2009* (Cth)) may need to be amended to give consideration to the new clause 31A of the Award which will be inserted therein from 1 December 2018 pursuant to the decisions of the Full Bench in the Family Friendly Work Arrangements Case² and the determinations resulting therefrom.

This could be achieved by inserting the words “or clause 31A of this award” after the words “section 65 of the Act” at paragraph 24.4(g) and the note thereto.

We note that the clause inserted by the Family Friendly Work Arrangements Case may not remain as clause 31A following the plain language re-drafting process, and this would need to be amended accordingly.

Other than these matters, we have no issue with the overtime clause as it stands in the revised PLED as published.

Yours faithfully,



Lindsay Carroll
Deputy CEO

² [2018] FWCFB 5753 and [2018] FWCFB 6863

