

Master Builders Australia

Submission to the Fair Work Commission

on

4 Yearly Review of Modern Awards –

Payment of Wages (AM2016/8)

2 February 2017



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CONTENTS

1	Introduction	3
2	Provisional ‘payment of wages and other amounts’ model term	4
3	Provisional ‘payment on termination of employment’ model term	4
4	Conclusion	5

1 Introduction

- 1.1 This submission is made by Master Builders Australia (Master Builders). Master Builders is Australia’s peak building and construction industry association, federated on a national basis in 1890. Master Builders’ members are the nine Master Builder State and Territory associations.
- 1.2 Over the past 120 years the association has grown to represent over 33,000 businesses nationwide. Master Builders is the only industry body that represents all three building and construction sectors: residential, commercial and engineering.
- 1.3 Master Builders files this submission pursuant to paragraph [198] of the Decision dated 1 December 2016 (‘the decision’) ¹ and in reply to the submissions of the parties regarding the provisional ‘payment of wages and other amounts’ and ‘payment on termination of employment’ model terms.
- 1.4 Master Builders maintains an interest in the *Building and Construction General On-Site Award 2010* (On-Site Award) and the *Joinery and Building Trades Award 2010* (Joinery Award) and makes these submissions in the context of their application to those two awards.
- 1.5 This submission deals primarily with matters raised in the Construction, Forestry, Mining and Energy Union’s (‘CFMEU’) submission, undated and uploaded to the Commission’s website on 22 December 2016, within which they make a number of observations that are either incorrect or without regard to all circumstances relevant to this matter.²
- 1.6 Master Builders broadly supports, on an in-principle basis, the Commission’s provisional model terms and their inclusion, with necessary award-specific amendments as previously submitted, in the On-Site and Joinery Awards.

¹ [2016] FWCFB 8463

² CFMEU Submissions – 4 yearly review of modern awards – Payment of wages – AM2016/8, undated.

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2 Provisional ‘payment of wages and other amounts’ model term

- 2.1 The CFMEU’s contention that the Commission’s ‘payment of wages and other amounts’ model term which provides an option for either fortnightly or monthly (by agreement) payment would be unfair to employees is unfounded.
- 2.2 The CFMEU claim, at paragraph [5] misstates that the application of the model term would result in some employees not receiving their entitlements for 5-6 weeks. This claim is misleading for two reasons.
- 2.3 First, the model term clearly proposes under x.1(e) that monthly payments can only occur by agreement between the employee and employer or where such an agreement is already in place.³
- 2.4 Second, the model term proposes, under x.1(f), that ‘*Where an employee’s pay period is one month, two weeks must be paid in advance and two weeks in arrears*’.⁴ As the Commission observes at paragraph [41] of the decision, where monthly payment is made by agreement, an employer would be required to pay an employee two weeks in advance, therefore limiting the amount of entitlements accrued in arrears and ensuring compliance with s.323(1)(c) of the Fair Work Act.⁵

3 Provisional ‘payment on termination of employment’ model term

- 3.1 In contrast to the CFMEU’s position expressed at paragraph [7] of its submission, notwithstanding any sector specific nuances that will require appropriate amendment, Master Builders supports the inclusion of the ‘payment on termination of employment’ model term in the On-Site and Joinery Awards.

³ Ibid at para [34]

⁴ Ibid

⁵[2016] FWCFB 8463

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- 3.2 The model term, in particular, remedies a unique issue that currently exists under the On-Site Award where Daily Hire employees are effectively entitled to termination payments at the end of the same day (or only if not practicable within 2 days) they provide notice.⁶

4 Conclusion

- 4.1 Providing an option for employers to pay their workers fortnightly (or monthly by agreement), as well as allowing for more reasonable timeframes to calculate and make termination payments, would provide greater flexibility for employers and recognise modern work practices.

⁶ See clause 31.4 of the *Building and Construction General On-Site Award 2010*

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