

4 yearly review of modern awards—Payment of wages

**CFMEU Submissions**

1. These submissions are filed by the Construction and General Division of the Construction, Forestry, Mining and Energy Union (CFMEU) in accordance with the directions made by the Full Bench in its decision in [2016] FWCFB 8463.
2. The CFMEU has a primary interest in three awards, being the *Building and Construction General On-site Award*, the *Joinery and Building Trades Award* and the *Mobile Crane Hiring Award*.
3. The CFMEU submits that the issue of inclusion of a payment of wages term in the awards it has an interest in ought be determined at the Award stage. This is particularly important for the *Building and Construction General On-site Award* and *Mobile Crane Hiring Award* which currently and historically have had provisions dealing with payment of wages on termination.

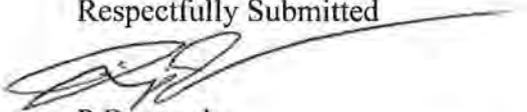
***General observations about the proposed model term***

4. The CFMEU concurs that all modern awards should contain a provision that provides for the method and frequency of payment and payment on termination of provisions. However, we do not support a number of the specific provisions of the proposed model term, in particular:
  - (a) that payment occur no later than 7 days after the end of each pay period;
  - (b) the introduction of fortnightly and monthly pay periods;
  - (c) the capacity of an employer to unilaterally change a pay period;
5. These specific provisions represent a reduction in existing terms for a number of awards and would be unfair to employees. A pay period may be up to a month pursuant

to s 323(1)(c), meaning employees may not receive payment of wages and other entitlements for 5-6 weeks in some circumstances. Payment ought occur within a stipulated pay period, not within 7 days of the end of the pay period.

6. The ability of an employer to unilaterally alter a pay period by providing notice in writing also has the potential to operate disadvantageously to employees, particularly the low paid who are reliant on consistent payment of wages. To the extent that an employer should have this right at all, it should be one exercisable only with the agreement of a majority of employee's in the employer's enterprise. It ought not be something imposable by the diktat of the boss.
7. The CFMEU also notes that the Commission's proposed term does not appear to take account of s 119 of the Act. That section requires payment of redundancy pay on termination. An employee who has been made redundant is entitled to be paid redundancy forthwith when their employment is terminated. Any term of a modern award that delayed a redundancy payment would be impermissible by force of s 55 of the Act. Any payment of wages term would requires a carve out for redundancy under s 119 as well as notice under s 117, as the CFMEU previously identified to the Commission.
8. The detail of the provisions to be included in each award should be dealt with on a case by case basis and we therefore would support the approach identified in paragraph [49] that awards should contain "a version of the model term appropriately adapted to the existing award payment arrangements".

Respectfully Submitted



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