

# CFMEU

13 October 2016

Fair Work Commission  
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East Sydney 2010

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Dear Associate,

#### **4 Yearly Review of Modern Awards - AM2016/8**

In accordance with the Directions of 15 August 2016 in the above matter, the CFMEU – Forestry, Furnishing, Building Products and Manufacturing Division (CFMEU-FFPD) makes the following submissions **enclosed**.

Yours faithfully



Liz Dooley  
Senior National Legal Officer  
Construction, Forestry, Mining and Energy Union  
Forestry, Furnishing, Building Products and Manufacturing Division

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**Stand up. Speak out. Come home.**

**Construction, Forestry, Mining & Energy Union – Forestry, Furnishing, Building Products & Manufacturing Division**



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ABN: 34 183 611 895

**IN THE FAIR WORK COMMISSION**

**Matter Number:** AM2016/8

*Fair Work Act 2009*

**s.156—4 yearly review of modern awards - Payment of wages**

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**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (FORESTRY, FURNISHING,  
BUILDING PRODUCTS AND MANUFACTURING DIVISION)**

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13<sup>th</sup> October 2016

<b>Construction, Forestry, Mining and Energy Union (Forestry, Furnishing, Building Products and Manufacturing Division)</b>	<b>Contact Person:</b>  Liz Dooley, Senior National Legal Officer	<b>Address for Service:</b>  500 Swanston Street, Carlton VIC 3053	<b>T:</b>  <b>F:</b>  <b>E:</b>	(03) 9274 9200  (03) 9274 9284  <a href="mailto:ffpdindustrial@cfmeu.org">ffpdindustrial@cfmeu.org</a>  <a href="mailto:ldooley@cfmeu.org">ldooley@cfmeu.org</a>
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## **AM2016/8 Payment of Wages**

### **CFMEU Forestry, Furnishing, Building Products and Manufacturing Division (CFMEU FFPD) Submissions**

The CFMEU-FFPD opposes the variation in relation to payment on termination proposed by the Commission to the *Timber Industry Award 2010* (Timber Award).

The CFMEU-FFPD opposes the variation for the same reasons as those identified in the AMWU Submissions, and endorses, adopts and supports the AMWU's Submissions.

Further, the CFMEU-FFPD opposes the variation on the following bases:

1. Employer-initiated termination of employment is within the power of the employer. Generally the exercise of that power is to the detriment of the employee. We submit that the obligation to pay any outstanding monies owed to the terminated employee *on termination* is a corollary of the employer's right to effect termination. The provision of outstanding entitlements on termination ameliorates the disadvantage which flows from in-voluntary termination of employment.
2. Under the Timber Award, wages may be paid monthly by agreement between the employee and employer.<sup>1</sup> Allowing up to a month to pass between termination of employment and a person's final pay becoming payable creates an opportunity for at least a couple of scenarios to arise:
  - a. An employer may go into liquidation, rendering the employee a creditor. In these circumstances it is unlikely an employee will receive all monies owing from the employer. An employee may receive nothing or be left with the option of lodging a claim under the Commonwealth Fair Entitlements Guarantee scheme, which can take several months to process.
  - b. A company experiencing cash-flow problems is provided with an opportunity to disguise those problems in the delay in the obligation to pay outstanding entitlements. Once the employee has left the workplace, there is less pressure on the employer to pay at all, and increases the likelihood that an employer will never pay the outstanding entitlements. The burden and cost of recovering unpaid entitlements then falls on the employee.

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<sup>1</sup> Clause 25.1(b)