



IN THE FAIR WORK COMMISSION

Matter no: AM2016/8

Four Yearly Review of Modern Awards – Payment Of Wages

SUBMISSIONS OF THE HEALTH SERVICES UNION

1. The Health Services Union (HSU) makes these submissions in response to the Statement issued on 21 August 2018 ('the Statement'),¹ directing parties to confirm whether they oppose the variation of the relevant awards to include the model term.
2. The HSU has an interest in the following awards listed in paragraph [3] of the Statement:
 - *Aged Care Award*
 - *Nurses Award*
 - *Supported Employment Services Award*
3. As indicated in the Conference held at 11:00am, on 1 August 2018 ('the Conference'), the HSU opposes the variation of these awards to include the model term.

Nurses Award

4. In relation to the *Nurses Award*, however, the HSU supports the proposal from the Australian Nursing and Midwifery Federation (ANMF), to insert the model term with minor modifications, as proposed in their submission of 7 September 2018. We agree that this would ensure that the entitlement to payment of all monies owing is retained.

Aged Care Award

5. In relation to the *Aged Care Award*, the HSU's view is that the current term provides greater entitlements than the model term, and should therefore be retained. The current term requires payment of all wages and other monies owing be made no later than the last day of the formal notice period. By contrast, the model term provides for payment only of wages and other amounts due under the award and the NES to be made no later than seven days after termination.
6. At the Conference, Justice Ross queried how the current term operates in cases of summary dismissal, and also in cases of payment in lieu. We agree that the term is

¹ [2018] FWC 4935

silent on this issue. However, we would not support inserting the model term to fix this issue, as this affects only a small number of employees. Comparatively, removing the current term would affect all employees covered by the award, particularly those paid above award wages.

7. However, the HSU would consider making an application to vary the term, to include an amendment that clarifies when payment of wages must be made on termination in the case of summary dismissal, as part of the *Aged Care Award* review, when this Award is listed for Hearing.

Supported Employment Services Award

8. The HSU strongly opposes inserting the model term in the *Supported Employment Services Award*.
9. Clause 18 - Payment of wages in this award is unique amongst the other modern awards, providing for immediate payment for all wages and other remuneration due on termination of employment. The HSU agrees with the comments made by United Voice at the Conference that this award covers employees with disabilities who are vulnerable and on a low-income, and that the current term is suitable in these unique circumstances. For these reasons the HSU supports retaining the current clause.

Health Services Union

7 September 2018

