

IN THE FAIR WORK COMMISSION

Matter no: AM2016/8

Four Yearly Review of Modern Awards – Plain Language – Payment of Wages

SUBMISSIONS OF THE HEALTH SERVICES UNION

1. The Health Services Union (HSU) makes these submissions in response to the submissions of the Pharmacy Guild of Australia (**PGA**), dated 9 August 2018, in relation to the Full Bench Decision of 17 July 2018 in respect of payment of wages provisions in the Pharmacy Industry Award (**PIA**).
2. The HSU opposes the variation to the model clause proposed by the PGA.
3. Whilst it is true that payment of wages have to be made at least fortnightly under the PIA, it may still negatively impact an employee whose employment has been terminated to access Newstart or other social security benefits if they have to wait a fortnight for their termination payment and final payslips. This was a consideration in the 1 December 2016 decision,¹ and reiterated in the 17 July 2018 decision,² and is a relevant consideration here.
4. The PGA also state that having to make termination payments out of the payroll cycle would create additional costs for many small businesses in the industry which rely on contractors to perform payroll and bookkeeping tasks.³ But, as recognised in the 1 December 2016 decision there are a number of obligations on employers to make 'out of cycle' payments on the day of termination or earlier, for example in the case of payment in lieu of notice of termination,⁴ and state long service leave laws.⁵ For example, the *Long Service Leave Act 2018* (Victoria) requires payment of the long service leave entitlement on the day that employment ended, with heavy penalties associated for breaches of this provision.⁶ If pharmacy employers are not hiring any payroll or bookkeeping staff to make such payments outside of pay cycles, then they would be in breach of such provisions.
5. The model clause strikes a balance between what is fair for an employee and for business. We see no reason why the Pharmacy industry is different to other

¹ [2016] FWCFB 8463, [95].

² [2018] FWCFB 3566, [36].

³ PGA Submissions, 9 August 2018, [10].

⁴ [2016] FWCFB 8463, [75] – [84].

⁵ *Ibid*, [113] – [117].

⁶ *Long Service Leave Act 2018* (Victoria), s 9.

industries with small businesses who may not have dedicated payroll or bookkeeping staff.

6. We do not agree that the standard of 7 days set in the model clause should be varied for the Pharmacy Industry.

Health Services Union

30 August 2019

