



5 August 2019

Iain Ross
President
Fair Work Commission
11 Exhibition Street
MELBOURNE VIC 3000

By email amod@fwc.gov.au
 chambers.ross.j@fwc.gov.au

Dear President

Re AM2016/8
4 Yearly Review of Modern Awards – Payment of Wages
Plumbing and Fire Sprinklers Award 2010

I refer to the abovementioned proceedings, in particular the recent decision of the Fair Work Commission (**Commission**) ([2019 FWCFB 5146], 26 July 2019).

In that decision the Commission asked interested parties to make submissions on two (2) different applications to vary seventeen (17) different modern awards.

One of those seventeen (17) awards was the *Plumbing and Fire Sprinklers Award 2010 (PFS Award)*.

Master Plumbers has considered the applications.

Master Plumbers would not oppose either application.

However, Master Plumbers would (in both instances) oppose the inclusion of the second sentence in Note 2.

The second sentence in Note 2 provides:-

“For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s. 120 of the Act for the Commission to reduce the amount of redundancy pay an employee is entitled to under the NES.”

It is the view of Master Plumbers that the proposed words would have no work to do.

Section 123(4)(b) of the *Fair Work Act 2009* (C'th) (**FW Act**) provides that Subdivision B – Redundancy Pay would not apply to “an employee to whom an industry – specific redundancy scheme in a modern award applies”.

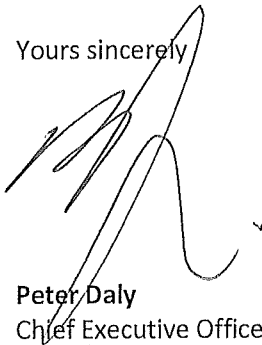
Clause 18 – Industry Specific Redundancy Scheme of the PFS Award is for the purposes of Section 123(4)(b) of the FW Act an industry specific redundancy scheme.

As a consequence, there is an argument to say that Section 120 of the FW Act does not have any application or operation with Clause 18 – Industry Specific Redundancy Scheme of the PFS Award, because the redundancy payments are derived from Clause 18 – Industry Specific Redundancy Scheme of the PFS Award and not Section 119 of the FW Act.

It is the submission of Master Plumbers that the second sentence of either application should be deleted, or another example inserted, prior to the PFS award being varied.

If you require any further information please contact Phil Eberhard on (03) 9321 0720 or by email at phil.eberhard@plumber.com.au

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter Daly', with a long, sweeping underline that extends to the right.

Peter Daly
Chief Executive Officer