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Sent: Friday, 14 May 2021 12:55 PM

To: AMOD <AMOD@fwc.gov.au>

Subject: Clerks Private Sector Award 2020 – Work from Home Case (AM2020/98)

Good Afternoon,

With respect, we are writing to oppose your provisional view that the matter regarding future working from home arrangements under the Clerks Award 2020 be discontinued, and that Schedule 1 to the Clerks award will cease operation on 30 June 2021.

As an HR Company that provides advice and services to many small to medium business across Australia, we have a number of clients that come wholly under the Clerks Award or, at least, have a number of employees who do so. The current flexibility in the Clerks Award has been greatly appreciated by employees in particular, as it has provided significant flexibility for managing work commitments with other external obligations including caring responsibilities and other domestic issues.

One example of this is an employer that has a number of part time bookkeepers employed to service their customers. The majority of the employees are women. The employer only requires that the work be done, and their customers' requirements are met as agreed. The employee has the freedom to do the work within their choice of hours of the day and in the blocks of time that suit them – that can be one hour or five hours, or anything in between. The flexibility of start and finish times cannot be underestimated, and the employer has found increased engagement and positive feedback from employees. Additionally, the employer is not looking to have employees come back to an office in the future, as the work is either done at home or at a client site, and the employees are fully supportive of this.

Under the Award when employing, offering and agreeing mutually beneficial flexible working arrangements including remote working, hours of work and when work is performed is hampered by the fact that Individual Flexibility Arrangements (IFA) can only be agreed after the individual employee has commenced with the employer. On that basis alone, the initial employment contract must meet the Award requirements as a minimum. Yes, the employer and new employee can technically agree an IFA the day after they commence, but if both parties genuinely want flexibility from the outset, then this is an unnecessary administrative burden, especially for small business. Without the IFA, even if there has been a verbal agreement and the employee has worked how and when they want, if they put in a claim for overtime or penalties down the track, it will most likely be decided in their favour.

COVID-19 and its impact on the employment landscape has been significant, but it has demonstrated that working from home and flexible working arrangements can provide huge advantages to both employers and employees. Whilst there is no argument that Awards afford protection to employees in regard to wages and certain entitlements, they are out of date in regard to flexibility and the modern workplace. It will be a negative step to revert back to the original Award provisions and less flexible working options. Basically, we believe at a minimum the current arrangements should stay as overall they are beneficial to employees and employers.

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