Fair Work Commission

Annual Wage Review 2016-17
(C2017/1)
(Preliminary Issues)

Submission of the Textile Clothing and Footwear Union of Australia

(11 October 2016)

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1. BACKGROUND

1.1 The Textile, Clothing and Footwear Union of Australia ('TCFUA') provides this submission in response to the Statement[1] and Background Papers issued by the Fair Work Commission ('the Commission') (19 September 2016) in relation to the following preliminary matters:

- A proposal for a medium-term target;[2]
- A review of transitional instruments;[3] and
- A review of existing arrangements for employees with a disability.[4]

1.2 The TCFUA has had an opportunity to review the ACTU's submission[5] in relation to these matters. The TCFUA supports and adopts those submissions.

1.3 The TCFUA provides the following additional submissions in relation to the Commission's review of transitional arrangements.

2. TRANSITIONAL ARRANGEMENTS

2.1 The Commission's Background Paper on Transitional Arrangements contains at Appendix 1 a list of remaining transitional instruments.[6] A list of transitional instruments in which the TCFUA has an interest is included in the following table:

TCF INDUSTRY – LIST OF REMAINING TRANSITIONAL INSTRUMENTS

Title of instrument	Transitional award or NAPSA code	Common rule	State reference transitional award code	Notes/Legend
Clothing Trades Award 1999	AP772144	CAV[7]	AT772144	AE[8]
The Footwear – Manufacturing and Component Industry (Long Service Leave) Award 1977	AP781118		AT781118	LSL[9]
Textile Industry Award 2000	AP799036	CRV	AT799036	AE

[1] Annual Wage Review 2016-17 (C2017/1) [2016] FWCFB 6730 (19 September 2016)
[2] Annual Wage Review 2016-17 (C2017/1) Background Paper: 'Proposal for a medium-term target' (19 September 2016)
[3] Annual Wage Review 2016-17 (C2017/1) Background Paper: 'Transitional arrangements' (19 September 2016)
[4] Annual Wage Review 2016-17 (C2017/1) Background Paper: 'Review of Existing wage arrangements for employees with a disability' (19 September 2016)
[5] Annual Wage Review 2016-17 (C2017/1) ACTU Submission on Preliminary Issues (10 October 2016)
[6] Background Paper: 'Transitional arrangements'; pp 40 – 51. The FWC states at [95] that the list is indicative only and reflects current FWC records as at 15 September 2016.
[7] Ibid; 'CAV' refers to 'Common rule in ACT and Victoria'
[8] Ibid; 'AE' refers to 'instruments that cover employees also covered by an enterprise agreement'
[9] Ibid; 'LSL' refers to 'an instrument containing long service leave provisions: these instruments were not considered during the Part 10A award modernisation process as per paragraph 34 of the Minister's request.

Textile Industry (State) Award [NSW]	AN120549			AE

Transitional instruments in relation to long service leave

2.2 The TCFUA has reviewed the terms of the *The Footwear – Manufacturing and Component Industry (Long Service Leave) Award 1977*.[10] The TCFUA notes that this award has very limited application and that its terms are less beneficial than provisions applying under relevant state legislation. For these reasons the TCFUA is not opposed to the termination of this transitional instrument.

Transitional instruments of general application

2.3 The TCFUA supports the specific submissions made by the ACTU regarding the potential impact of termination of transitional instruments on enterprise agreements which variously incorporate by reference one, or more of such instruments (where an ambulatory interpretation is provided for).[11]

2.4 In our submission, if the termination of a transitional instrument/s so incorporated negatively impacted on current rights and obligations under an enterprise agreement, such an outcome would be inherently unfair and clearly an unintended consequence of the award modernisation process.

2.5 We support the proposed process outlined in the ACTU submission[12] regarding this issue.

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[10] https://www.fwc.gov.au/documents/consolidated_awards/ap/ap781118/asframe.html
[11] ACTU Submission; op cit; at para [2.2]
[12] Ibid;