

From: Brent Ferguson <Brent.Ferguson@aigroup.com.au>

Sent: Thursday, 29 October 2020 5:59 PM

To: Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>

Cc: Luis Izzo <luis.izzo@ablawyers.com.au>; Michael Rizzo <mrizzo@asu.asn.au>; Sophie Ismail <sismail@actu.org.au>

Subject: Application to vary the Clerks - Private Sector Award 2020 - proposed employer survey

Dear Associate,

I write in relation to the proceedings arising from the Ai Group/ACCI application to vary the *Clerks – Private Sector Award 2020*.

Please find attached a copy of proposed amended survey questions that have been prepared jointly by Ai Group and ACCI. A copy in ‘track changes’ form is also attached.

The employer parties intend to speak to the reasons for the alternate approach during the conference.

Regards,

Brent Ferguson

National Manager – Workplace Relations Advocacy & Policy

The Clerks Award & working from home during COVID-19

The Fair Work Commission wants to understand how businesses with employees covered by the Clerks Award have adapted to working from home during the COVID-19 pandemic.

Complete this survey if:

- You are an employer
- You have employees covered by the Clerks – Private Sector Award 2020 (the Clerks Award).

Please **do not** complete this survey if you have an **Enterprise Agreement** in place which covers all of your employees who would otherwise be covered by the Clerks Award.

You should only complete the survey **once**, regardless of how many times you have received an invitation to complete the survey.

What will the survey ask?

We will ask you about **your business and your employees**. The survey includes questions about where your business is, how many employees you have and how many employees are covered by the Clerks Award.

We will also ask you about any **working from home arrangements** accessed by your employees. The survey includes questions about any changes to how your employees are working their hours while they're at home. It also includes questions about what extra help, if any, you've provided.

How do I know if my employees are covered by the Clerks Award?

The [Clerks Award](#) covers employees who mainly carry out clerical and administrative work in the private sector.

This includes:

- filing and photocopying
- typing and word processing
- managing accounts, invoices and orders
- billing clients and customers
- maintaining records and journals, including payroll
- answering calls
- cash handling
- operating a telephone switchboard
- attending a reception desk
- secretarial and executive support services.

Examples of employees covered by the Clerks Award include:

- an administrative assistant
- a receptionist in an accounting firm
- a bookkeeper in a manufacturing company
- a clerical employee in a retail head office

If you're still not sure, you can check with the [Fair Work Ombudsman](#).

What will we do with your responses?

The Commission will use your responses to understand how the flexibility provisions in the Clerks Award are being used by employees and employers during the COVID-19 pandemic. Survey responses will remain confidential. We will not be able to identify you by your responses. If you have any questions or concerns about your privacy or how the data will be used, please contact [X](#)

Your business and employees

1. Does your business have any employees covered by the Clerks Award?

- Yes
 No — End survey. Thank you for participating.

2. Does your business have an enterprise agreement?

- Yes — Go to question 2.1
 No — Go to question 3

2.1. Does your enterprise agreement cover any employees who would otherwise be covered by the Clerks Award?

- Yes, all of them — End survey. Thank you for participating.
 Yes, some of them — Go to question 3
 No — Go to question 3

3. Approximately how many employees does your business currently employ?

4. How many of your employees are covered by the Clerks Award (Don't count any employees covered by an enterprise agreement)?

COVID-19 response

5. Approximately how many of your Clerks Award employees have been working from home since 1 July 2020? (You should include all employees working from home during this period, not just employees who started working from home after 1 July 2020).

6. How many of these employees are:

Gender	Number of employees
Male	
Female	
Other (Individuals who identify as non-binary, gender diverse, or with descriptors other than male or female.)	

7. Of the employees working from home since 1 July 2020, have any of them changed their pattern of work. Tick all that apply.

- No change – Go to question 10

- Yes--Starting earlier than usual
- Yes--Finishing later than usual
- Yes--Breaking up working day
- Yes-- Working longer periods on some days and shorter periods on other days
- Yes--Other, please provide details:

- Don't know

8. How many of your employees who are covered by the Clerks Award and who have been working from home since 1 July 2020 have changed their working hours?

- All
- Most
- Some
- None
- Don't know

9. Thinking about those employees who are working from home at different times, why are the different working hours in place? Tick all that apply.

- Because of the employee's family/caring commitments
- Because the employee wishes to attend to personal matters during their usual working hours
- Because of the requirements of the work (e.g. client availability, manager availability, colleague availability or other work factors)
- Because the employer has asked the employee to work these different hours
- To accommodate an employee's secondary employment
- To accommodate an employee's study commitments
- Other _____
- Not sure / cannot say

10. Where employees covered by the Clerks Award do work from home, who determines when breaks from work are taken?

- The employee chooses when they have a break
- The employer directs the times that breaks may be taken
- Both
- Other _____

11. Have any additional payments or support been provided by the business to employees covered by the Clerks Award who have been working from home since COVID-19 restrictions commenced (i.e. since March 2020)? If yes, please tick all that apply and provide further details below:

- Existing laptop, computer or other equipment has been transferred to the home (temporarily or permanently)
- New Laptop, computer or other equipment
- Allowance or reimbursement for purchasing office equipment
- Allowance or reimbursement to cover home internet and/or electricity costs
- Mental health support
- Additional training

- Provision of a telephone or payment of a telephone allowance or reimbursement
 Other, please provide details:

10. Does your business have a policy about working from home?
 Yes
 No

If yes – You are requested to please provide a copy of the policy to the Fair Work Commission by emailing it to [X](#) if possible. A copy of any policy emailed to the Fair Work Commission will not be made available to any party other than the Fair Work Commission.

Commented [BF1]: To be reworded/further considered by the Commission

11. In which state or territory is your business located (tick all that apply)?

- Australian Capital Territory
 New South Wales
 Northern Territory
 Queensland
 South Australia
 Tasmania
 Victoria
 Western Australia

Flexible working arrangements

The standard spread of ordinary hours (for employees other than shiftworkers) under the Clerks Award is between:

- 7.00 am and 7.00 pm on Monday to Friday; and
- 7.00 am and 12.30 pm on Saturday.

Normally, an employee (other than a shiftworker) who works outside of this spread of hours would be entitled to paid overtime.

The Clerks Award Flexibility Schedule extends the spread of ordinary hours of work. It allows an employee who is working from home to request a change in the spread of ordinary hours of work so that ordinary hours can be worked between:

- 6.00 am and 10.00 pm, Monday to Friday; and
- 7.00 am and 12.30 pm on Saturday.

12. Of your employees (other than shift workers) who are covered by the Clerks Award and have been working from home in the period since 1 July 2020, how many have changed their working patterns so that they have either regularly or from time to time undertaken work **before 7am** on weekdays during this period?

- All
 Most
 Some
 None

Don't know

Please indicated the approximate number if known:

13. Of your employees who are covered by the Clerks Award (other than shift workers) and have been working from home since 1 July 2020, how many have changed their working patterns so that they have either regularly or from time to time undertaken work **between 7pm and 10pm** on weekdays during this period:

- All
- Most
- Some
- None
- Don't know

Please indicate the approximate number if known.

And of those who have changed their work patters so as to undertake work between 7pm and 10pm, how many have changed their working patters so that they have either regularly or from time to time worked any of their hours between the following times:

a. 9pm and 10pm:

b. 8pm and 9 pm:

c. 7pm and 8 pm:

d. Another time (please specify)

e. Not sure

Future working from home arrangements

14. In the future, assuming you were not required by any public health order or other legal obligation to permit an employee to work from home, do you anticipate that you would nonetheless allow some of your employees covered by the Clerks Award to work from home at least some of the time?

- Yes
- No

15. Are there any impediments to your business if employees covered by the Clerks Award are allowed to work from home? If yes, please tick all that apply and provide further details below:

- Work cannot be completed from home
- Reductions in the quality of the employee's work performance
- Work cannot be supervised to the same extent as in the workplace
- Loss of productivity

- Security/privacy concerns (including IT)
- WHS concerns
- Costs of facilitating the arrangement
- Other, please provide details:

16. If you were to permit some of your employees covered by the Clerks Award to generally or sometimes work from home, are there circumstances or times when you will likely still require some or all of these employees to undertake some work at your workplace?

- Yes
- Potentially
- No

If the employer answers “yes” or “potentially” move to question 17

17. Why would you potentially require employees to undertake some work at the workplace?

- because some work activities cannot be performed remotely
- to participate in team meetings/gatherings
- to ensure adequate supervision of the employee
- to maintain regular contact with the workplace, supervisor, peers or clients.
- because of concerns about the quality of work performed remotely
- Other, please provide details

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What will we do with your responses?

The Commission will use your responses to understand how the flexibility provisions in the Clerks Award are being used by employees and employers during the COVID-19 pandemic. Survey responses will remain confidential. We will not be able to identify you by your responses. If you have any questions or concerns about your privacy or how the data will be used, please contact [X](#)

Your business and employees

1. Does your business have any employees covered by the Clerks Award?

- Yes
- No — End survey. Thank you for participating.

Commented [ZB1]: ACCI suggest removing this note as it may cause confusion.

2. Does your business have an enterprise agreement?

- Yes — Go to question 2.1
- No — Go to question 3

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2.1. Does your enterprise agreement cover any employees who would otherwise be covered by the Clerks Award?

- Yes, all of them — End survey. Thank you for participating.
- Yes, some of them — Go to question 3
- No — Go to question 3

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3. Approximately how many employees does your business currently employ?

Commented [ZB2]: ACCI proposed amendment to reduce administrative burden.

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4. How many of your employees are covered by the Clerks Award (Don't count any employees covered by an enterprise agreement)?

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COVID-19 response

Commented [ZB3]: ACCI suggestion

5. Approximately how many of your Clerks Award employees have been working from home since 1 July 2020? (You should include all employees working from home during this period, not just employees who started working from home after 1 July 2020).

Commented [ZB4]: ACCI proposed amendment to reduce administrative burden.

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6. How many of these employees are:

Commented [ZB5]: ACCI suggests deleting this question saying that it's not relevant.

Gender	Number of employees
Men Male	
Women Female	
Other (Individuals who identify as non-binary, gender diverse, or with descriptors other than man male or woman female.)	

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7. Of the employees working from home since 1 July 2020, have any of them changed their pattern of work. Tick all that apply:

- No change – Go to question 910
- Yes–Starting earlier than usual
- Yes–Finishing later than usual
- Yes–Breaking up working day
- Yes–Working longer periods on some days and shorter periods on other days
- Yes–Other, please provide details:

Don't know

8. How many of your employees that who are covered by the Clerks Award and who have been working from home since 1 July 2020 have changed their working hours?

- All
- Most
- Some
- None
- Don't know

9. Thinking about those employees covered by the Clerks Award who are working from home at different times, why are the different working arrangements in place? Tick all that apply.

- Because of the employee's family/caring commitments
- Because the employee wishes to attend to personal matters during their usual working hours
- Because of the requirements of the work (e.g. client availability, manager availability, colleague availability or other work factors)
- Because the employer has asked the employee to work these different hours
- To accommodate an employee's secondary employment
- To accommodate an employee's study commitments
- Other _____
- Not sure / cannot say

10. Where employees covered by the Clerks Award do work from home, who determines when breaks from work are taken?

- The employee chooses when they have a break
- The employer directs the times that breaks may be taken
- Both
- Other _____

11. Have any additional payments or support been provided by the business to employees covered by the Clerks Award who have been working from home since COVID-19 restrictions commenced (i.e. since March 2020)? If yes, please tick all that apply and provide further details below:

Commented [ZB6]: ASU suggest an additional question regarding whether the change in the pattern of work was initiated by the employer or the employee.

Commented [ZB7]: ACCI suggestion.

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Commented [ZB8]: ACCI suggestion

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Commented [ZB9]: ACCI suggestion

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Commented [ZB10]: ACCI suggestion

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Commented [ZB11]: ASU suggest an additional question about whether a risk assessment was undertaken.

Existing laptop, computer or other equipment has been transferred to the home*
(temporarily or permanently)

New Laptop, computer or other equipment

Allowance or reimbursement for purchasing office equipment

Allowance or reimbursement to cover home internet and/or electricity costs

Mental health support

Additional training

Telephone

Provision of a telephone or payment of a telephone allowance or reimbursement

Other, please provide details:

--

10. Does your business have a policy about working from home?

Yes

No

If yes – You are requested to please provide a copy of the policy to the Fair Work Commission by email ~~mailing it to~~ if possible. A copy of any policy emailed to the Fair Work Commission will not be made available to any party other than the Fair Work Commission.

11. In which state or territory is your business located (tick all that apply)?

Australian Capital Territory

New South Wales

Northern Territory

Queensland

South Australia

Tasmania

Victoria

Western Australia

Flexible working arrangements

The standard spread of ordinary hours (for employees other than shiftworkers) under the Clerks Award is between:

- 7.00 am and 7.00 pm on Monday to Friday; and
- 7.00 am and 12.30 pm on Saturday.

Normally, an employee (other than a shiftworker) who works outside of this spread of hours would be entitled to paid overtime.

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Commented [ZB12]: ACCI suggestion

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Commented [ZB13]: ACCI suggestion

Commented [ZB14]: Ai Group proposed amendment

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Commented [ZB15]: Ai Group propose removing this question as it might identify the employer. The idea was that the survey would be completed anonymously through an online platform and the employer would email the survey separately meaning that the survey responses couldn't be matched with the policy to identify the employer.

Commented [BF16]: To be reworded/further considered by the Commission

The Clerks Award Flexibility Schedule extends the spread of ordinary hours of work. It allows an employee who is working from home to request a change in the spread of ordinary hours of work so that ordinary hours can be worked between:

- 6.00 am and 10.00 pm, Monday to Friday; and
- 7.00 am and 12.30 pm on Saturday.

12. Of your employees other than shift workers who are covered by the Clerks Award and have been working from home in the period since 1 July 2020, how many are have changed their working patterns so that they have either regularly starting or from time to time undertaken work before 7 am on weekdays? (Regularly means at least once a week), during this period?

- All
- Most
- Some
- None
- Don't know

Please indicated the approximate number if known:

In the period since 1 July, have any of

13. Of your day work employees who are covered by the Clerks Award worked ordinary hours before 7am whilst working from home? (other than shift workers)

~~If yes~~ go to question 13

If no go to question 14

13. Of your employees who are covered by the Clerks Award and are working from home since July 2020, how many are regularly starting ordinary hours of work before 7 am on weekdays

- All
- Most
- Some
- None
- Don't know

13. Of your employees who are covered by the Clerks Award and have been working from home since 1 July 2020, how many are regularly working until after have changed their working patterns so that they have either regularly or from time to time undertaken work between 7pm and 10pm on weekdays during this period:

- All
- Most
- Some
- None
- Don't know

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Commented [ZB17]: Ai Group proposed amendment to seek general responses to lighten the administrative burden for those completing the survey

Commented [ZB18]: Ai Group proposed amendment. They propose the same amendment to each of the questions below.

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Please indicate the approximate number if known.

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And of those who have changed their work patters so as to undertake work between 7pm and 10pm, how many are have changed their working patters so that they have either regularly working until or from time to time worked any of their hours between the following times:

a. 9pm and 10pm:

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b. 8pm and 9 pm:

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c. 7pm and 8 pm:

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d. Another time (please specify)

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e. Not sure

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Commented [ZB19]: Suggested new section from ACCI to understand the difference between COVID responses and future WFH arrangements

Future working from home arrangements

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14. In the future, assuming you were not required by any public health order or other legal obligation to permit an employee to work from home, do you intend on allowing anticipate that you would nonetheless allow some of your employees covered by the Clerks Award to work from home at least some of the time?

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Yes

No

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15. Are there any impediments forto your business with allowingif employees covered by the Clerks Award are allowed to work from home? If yes, please tick all that apply and provide further details below:

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Work cannot be completed from home

Concerns about Reductions in the quality of the employee's work (eg. client experience, accuracy, availability of resources at home) performance

Work cannot be supervised to the same extent as in the workplace

Concerns about loss Loss of productivity

Security/privacy concerns (including IT)

WHS concerns

Concerns about 'flow on effect' (eg. other employees will also seek to work from home).

Costs of facilitating the arrangement

Other, please provide details:

[]

16. If ~~an employee you were to permit some of your employees~~ covered by the Clerks Award ~~works to generally or sometimes work~~ from home, are there circumstances ~~or times~~ when you will ~~likely~~ still require ~~the employee to return to the~~ some or all of these employees to undertake some work at your workplace ~~on particular days/weeks??. Tick as many as apply~~

- Yes
- Potentially
- No

- Never
- Not likely, this is not commonly required
- Yes, for particular client meetings
- Yes, for particular ~~the employer answers "yes" or "potentially" move to question 17~~

17. Why would you potentially require employees to undertake some work at the workplace?

- because some work activities cannot be performed remotely
- Yes, for to participate in team meetings/gatherings
- Yes, to ensure adequate supervision of the employee
- Yes, to maintain regular contact with the workplace, supervisor, peers or clients.
- because of concerns about the quality of work performed remotely
- Other, please provide details

[]

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Your business and employees

1. Does your business have any employees covered by the Clerks Award?

- Yes
 No — End survey. Thank you for participating.

2. Does your business have an enterprise agreement?

- Yes — Go to question 2.1
 No — Go to question 3

2.1. Does your enterprise agreement cover any employees who would otherwise be covered by the Clerks Award?

- Yes, all of them — End survey. Thank you for participating.
 Yes, some of them — Go to question 3
 No — Go to question 3

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4. How many of your employees are covered by the Clerks Award (Don't count any employees covered by an enterprise agreement)?

COVID-19 response

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- Don't know

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- Other _____

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- Allowance or reimbursement to cover home internet and/or electricity costs
- Mental health support
- Additional training

- Provision of a telephone or payment of a telephone allowance or reimbursement
 Other, please provide details:

10. Does your business have a policy about working from home?
 Yes
 No

If yes – You are requested to please provide a copy of the policy to the Fair Work Commission by emailing it to workfromhome@fwc.gov.au if possible. A copy of any policy emailed to the Fair Work Commission will not be made available to any party other than the Fair Work Commission.

Commented [BF1]: To be reworded/further considered by the Commission

11. In which state or territory is your business located (tick all that apply)?

- Australian Capital Territory
 New South Wales
 Northern Territory
 Queensland
 South Australia
 Tasmania
 Victoria
 Western Australia

Flexible working arrangements

The standard spread of ordinary hours (for employees other than shiftworkers) under the Clerks Award is between:

- 7.00 am and 7.00 pm on Monday to Friday; and
- 7.00 am and 12.30 pm on Saturday.

Normally, an employee (other than a shiftworker) who works outside of this spread of hours would be entitled to paid overtime.

The Clerks Award Flexibility Schedule extends the spread of ordinary hours of work. It allows an employee who is working from home to request a change in the spread of ordinary hours of work so that ordinary hours can be worked between:

- 6.00 am and 10.00 pm, Monday to Friday; and
- 7.00 am and 12.30 pm on Saturday.

12. Of your employees (other than shift workers) who are covered by the Clerks Award and have been working from home in the period since 1 July 2020, how many have changed their working patterns so that they have either regularly or from time to time undertaken work **before 7am** on weekdays during this period?

- All
 Most
 Some
 None

Don't know

Please indicated the approximate number if known:

13. Of your employees who are covered by the Clerks Award (other than shift workers) and have been working from home since 1 July 2020, how many have changed their working patterns so that they have either regularly or from time to time undertaken work **between 7pm and 10pm** on weekdays during this period:

- All
- Most
- Some
- None
- Don't know

Please indicate the approximate number if known.

And of those who have changed their work patters so as to undertake work between 7pm and 10pm, how many have changed their working patters so that they have either regularly or from time to time worked any of their hours between the following times:

a. 9pm and 10pm:

b. 8pm and 9 pm:

c. 7pm and 8 pm:

d. Another time (please specify)

e. Not sure

Future working from home arrangements

14. In the future, assuming you were not required by any public health order or other legal obligation to permit an employee to work from home, do you anticipate that you would nonetheless allow some of your employees covered by the Clerks Award to work from home at least some of the time?

- Yes
- No

15. Are there any impediments to your business if employees covered by the Clerks Award are allowed to work from home? If yes, please tick all that apply and provide further details below:

- Work cannot be completed from home
- Reductions in the quality of the employee's work performance
- Work cannot be supervised to the same extent as in the workplace
- Loss of productivity

- Security/privacy concerns (including IT)
- WHS concerns
- Costs of facilitating the arrangement
- Other, please provide details:

16. If you were to permit some of your employees covered by the Clerks Award to generally or sometimes work from home, are there circumstances or times when you will likely still require some or all of these employees to undertake some work at your workplace?

- Yes
- Potentially
- No

If the employer answers “yes” or “potentially” move to question 17

17. Why would you potentially require employees to undertake some work at the workplace?

- because some work activities cannot be performed remotely
- to participate in team meetings/gatherings
- to ensure adequate supervision of the employee
- to maintain regular contact with the workplace, supervisor, peers or clients.
- because of concerns about the quality of work performed remotely
- Other, please provide details