

**MODERN AWARDS REVIEW 2023-24  
(AM2023/21)**

**SUBMISSION COVER SHEET**



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**Modern Award Review Stream:**

Arts and Culture:

Job Security:

Work and Care:

Usability of awards:

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## IN THE FAIR WORK COMMISSION

**Matter No:** AM2023/21 – Modern Awards Review 2023-24

**Interested Party:** Australian Services Union

### SUBMISSION OF THE AUSTRALIAN SERVICES UNION MAKING AWARDS EASIER TO USE

#### INTRODUCTION

1. This submission regards the proposals made by the Australian Services Union ('**ASU**') in the Modern Award Review ('**Review**') with respect to Item 4 'Making awards easier to use'. It is made pursuant to the Statement issued by the Fair Work Commission ('**Commission**') on 4 October 2023.
2. The ASU is an interested party in the *Social, Community, Home Care and Disability Services Industry Award 2010* ('**SCHDS Award**') and the *Clerks Private Sector Award 2020* ('**Clerks Award**').

#### SCHDS AWARD

3. The ASU's interest in the SCHDS Award comes from our social and community services sector coverage. The ASU is the largest union of social and community service workers. Our members predominantly work in non-government, not-for-profit organisations that support people experiencing or at the risk of experiencing crisis, disadvantage, social dislocation or marginalisation.
4. We propose that the Award could be made easier to use by:
  - simplifying the presentation of Modern Award and Equal Remuneration Order rates of pay at clause 15 and
  - deleting Schedule A – Transitional Provisions.
5. Enclosed with this submission are two draft determinations for the proposals made by the ASU.

#### *ISSUE 1 – Clarifying the expression of Award and Equal Remuneration Order Rates of Pay*

6. Employees covered by Schedule B (Social and Community Services Employees) and Schedule C (Crisis Accommodation Employees) are covered by the *2012 Social and Community Services Equal Remuneration Order* ('**ERO**').
7. The ERO rates of pay apply to all Schedule B and Schedule C employees. However, they do not form part of the SCHDS Award. For ease of use, the Fair Work Commission has included two notes at the end of Clause 15 to inform the reader of an Equal Remuneration Order. As discussed below, the presentation of this note is confusing.
8. Clause 15 provides the minimum weekly wages for social and community employees and crisis

accommodation. In clauses 15.1 to 15.8, the SCHDS Award details the weekly wages applicable to Schedule B and Schedule C employees. After clause 15.8, the Award includes 'Note 1' and 'Note 2'. Note 1 deals with the Transitional Pay Equity Order applicable to some incorporated associations in Queensland. Note 2 states that the ERO is applicable and then sets out the applicable ERO loading and rate of pay in a table. When viewed on the internet, Note 2 is below the fold of the website.

9. Employers and employees commonly misinterpret clauses 15.1 to 15.8, believing that if they pay with those rates of pay are the applicable pay rates without taking the ERO into account. This results in underpayments.
10. It is common and logical for employers and employees to identify the relevant classification and apply the specified rate by reference to the appropriate award term. It is not inherently logical that, upon identifying the classification and rate, an employer or employee would automatically proceed beyond that clause to a note at the bottom of the page to understand their industrial obligations.
11. The ASU proposes the following amendments to clause 15:
  - a. repositioning the table in Notes 1 and 2 to the beginning of Clause 15; and
  - b. amending 15.2 through 15.8 to reference the ERO rates.
12. This variation aims to consolidate the interpretation of the pay rate into a single location, streamlining the process of reading the SCHDS Award. It does not and is not intended to, incorporate the ERO into the SCHDS Award.

#### *ISSUE 2 – Deleting the obsolete Schedule A – Transitional Provisions*

13. The SCHDS Award incorporates transitional arrangements that outline the commencement dates for specific sections of the award. These arrangements are outlined in clauses within the primary body of the award, as well as in Schedule A.
14. Schedule A – Transitional provisions of the SCHDS Award were inserted into the SCHDS Award following a Decision issued by Fair Work Australia [[2010] FWAFB 8558]. The provision intended to ensure Award Modernisation does not override any transitional pay equity order or equal remuneration order that applied to pre-modern award rates.<sup>1</sup>
15. The Equal Remuneration Order has taken effect and was fully implemented by 1 July 2014. No employee's rate of pay is set by reference to pre-modern award rates.
16. The SCHDS Award's usability is hindered by the inclusion of obsolete provisions, which also require cross-referencing with other clauses. This complexity is unnecessary and can impede

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<sup>1</sup> [2010] FWAFB 8558 [39].

useability due to redundant provisions.

17. The ASU proposes to delete obsolete Schedule A from the SCHDS Award.

#### **CLERKS AWARD**

18. The ASU's interest in the Clerks Award from our private sector coverage. Our members work across positions such as receptionists, front-of-house managers, customer service agents, call centre workers, team leaders, travel consultants, airline booking agents, pay officers, supervisors, managers, IT technicians, and operations specialists, to name a few.
19. The Full Bench of the Fair Work Commission has clarified the language in the Clerks Award during that Plain Language Re-Drafting review.<sup>2</sup> In considering the outcome of the Plain Language Re-Drafting of the Clerks Award, no further changes are necessary, and the ASU is not submitting any proposals.

**AUSTRALIAN SERVICES UNION**  
**21 December 2023**

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<sup>2</sup> *4 yearly review of modern awards – Plain Language re-drafting – Clerks – Private Sector Award* [2018] FWCFB 5553.



# DRAFT DETERMINATION

*Fair Work Act 2009*

s.157—FWC may vary etc. modern awards if necessary to achieve modern awards objective

s.576(2)(aa)—Promoting cooperative and productive workplace relations and preventing disputes

## Modern Awards Review 2023-24

(AM2023/21)

### SOCIAL, COMMUNITY, HOME CARE AND DISABILITY SERVICES INDUSTRY AWARD 2010

[MA000100]

Social, community, home care and disability services

JUSTICE HATCHER, PRESIDENT

SYDNEY, [DATE]

*Social, Community, Home Care and Disability Services Industry Award 2010*

A. Further to the decision issued on [insert date],<sup>1</sup> it is ordered that the *Social, Community, Home Care and Disability Services Industry Award 2010*<sup>2</sup> be varied by:

1. By inserting the following Note 1 and Note 2 found at the beginning of clause 15:

NOTE 1: A **transitional pay equity order** taken to have been made pursuant to item 30A of Schedule 3A to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth) has effect in accordance with that item. Transitional pay equity orders operate in Queensland as provided for in items 30A (6) and (7).

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NOTE 2: An **equal remuneration order** [ [PR525485](#) ] also applies to employees in the classifications in Schedule B —Classification Definitions—Social and Community Services Employees and Schedule C —Classification Definitions—Crisis Accommodation Employees of this award. The final rates of pay resulting from the equal remuneration order are set out below. The ‘current hourly wage’ and ‘current weekly wage’ in the tables below form employees’ ordinary rates of pay for all purposes.

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<sup>1</sup> [citation].

<sup>2</sup> MA000100.

2. By deleting the table in clause 15.2 and inserting the following:

**Equal remuneration rates for applicable Social and Community Services employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Social and community services employee level 2</b>				
Pay point 1	995.00	123	1223.85	32.21
Pay point 2	1026.20	123	1262.23	33.22
Pay point 3	1057.40	123	1300.60	34.23
Pay point 4	1085.60	123	1335.29	35.1

3. By deleting the table in clause 15.3 and inserting the following:

**Equal remuneration rates for applicable Social and Community Services employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Social and community services employee level 3</b>				
Pay point 1 (associate diploma/advanced certificate)	1085.60	126	1367.86	36.00
Pay point 2	1116.80	126	1407.17	37.03
Pay point 3 (3 year degree)	1140.70	126	1437.28	37.82
Pay point 4 (4 year degree)	1164.10	126	1466.77	38.60

**Equal remuneration rates for Crisis Accommodation employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>

<b>Crisis accommodation employee Level 1</b>				
Pay point 1 (associate diploma/advanced certificate)	1085.60	126	1367.86	36.00
Pay point 2	1116.80	126	1407.17	37.03
Pay point 3 (3 year degree)	1140.70	126	1437.28	37.82
Pay point 4 (4 year degree)	1164.10	126	1466.77	38.60

4. By deleting the table in clause 15.4 and inserting the following:

**Equal remuneration rates for applicable Social and Community Services employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Social and community services employee level 4</b>				
Pay point 1	1195.30	132	1577.80	41.52
Pay point 2	1226.50	132	1618.98	42.60
Pay point 3	1258.00	132	1660.56	43.70
Pay point 4	1286.10	132	1697.65	44.68

**Equal remuneration rates for Crisis Accommodation employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Crisis accommodation employee level 2</b>				
Pay point 1	1195.30	132	1577.80	41.52
Pay point 2	1226.50	132	1618.98	42.60
Pay point 3	1258.00	132	1660.56	43.70
Pay point 4	1286.10	132	1697.65	44.68

5. By deleting the table in clause 15.5 and inserting the following:

**Equal remuneration rates for applicable Social and Community Services employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Social and community services employee level 5</b>				
Pay point 1	1317.50	137	1804.98	47.50
Pay point 2	1345.80	137	1843.75	48.52
Pay point 3	1377.20	137	1886.76	49.6

**Equal remuneration rates for Crisis Accommodation employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Crisis accommodation employee level 3</b>				
Pay point 1	1317.50	137	1804.98	47.50
Pay point 2	1345.80	137	1843.75	48.52
Pay point 3	1377.20	137	1886.76	49.65

6. By deleting the table in clause 15.6 and inserting the following:

**Equal remuneration rates for applicable Social and Community Services employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Social and community services employee level 6</b>				
Pay point 1	1408.60	140	1972.04	51.90
Pay point 2	1439.60	140	2015.44	53.04
Pay point 3	1470.80	140	2059.12	54.19

**Equal remuneration rates for Crisis Accommodation employees**



	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Crisis accommodation employee level 4</b>				
Pay point 1	1408.60	140	1972.04	51.90
Pay point 2	1439.60	140	2015.44	53.04
Pay point 3	1470.80	140	2059.12	54.19

7. By deleting the table in clause 15.7 and inserting the following:

**Equal remuneration rates for applicable Social and Community Services employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Social and community services employee level 7</b>				
Pay point 1	1502.00	142	2132.84	56.13
Pay point 2	1533.50	142	2177.57	57.30
Pay point 3	1564.70	142	2221.87	58.47

8. By deleting the table in clause 15.8 and inserting the following:

**Equal remuneration rates for applicable Social and Community Services employees**

	<b>Minimum weekly wage</b>	<b>Final Rate ERO Percentage</b>	<b>Current weekly wage</b>	<b>Current hourly wage</b>
<b>Classification</b>	<b>\$</b>	<b>%</b>	<b>\$</b>	<b>\$</b>
<b>Social and community services employee level 8</b>				
Pay point 1	1595.90	145	2314.06	60.90
Pay point 2	1627.20	145	2359.44	62.09
Pay point 3	1658.70	145	2405.12	63.29

9. By deleting Notes 1 and Notes 2 at the end of Clause 15.

- B. This determination comes into operation on [date].

PRESIDENT

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MA000100



# DRAFT DETERMINATION

*Fair Work Act 2009*

s.157—FWC may vary etc. modern awards if necessary to achieve modern awards objective

s.576(2)(aa)—Promoting cooperative and productive workplace relations and preventing disputes

## Modern Awards Review 2023-24

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[MA000100]

Social, community, home care and disability services

JUSTICE HATCHER, PRESIDENT

SYDNEY, [DATE]

*Social, Community, Home Care and Disability Services Industry Award 2010*

A. Further to the decision issued on [insert date],<sup>1</sup> it is ordered that the *Social, Community, Home Care and Disability Services Industry Award 2010*<sup>2</sup> be varied as follows:

1. By deleting Schedule A.
2. By renumbering Schedules B, C, D, E and F accordingly.

B. This determination comes into operation on [date].

PRESIDENT

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<sup>1</sup> [citation].

<sup>2</sup> MA000100.