



# STATEMENT

*Fair Work Act 2009*

s.156 - 4 yearly review of modern awards

## **4 yearly review of modern awards**

(AM2014/251)

### **AGED CARE AWARD 2010**

**[MA000018]**

COMMISSIONER LEE

MELBOURNE, 26 JULY 2017

*4 yearly review of modern awards – Aged Care Award 2010.*

[1] On 14 July 2017 a conference was held to discuss the Summary of Proposed Substantive Variations (the summary) document updated 24 February 2016 in relation to the review of the *Aged Care Award 2010*. I conducted the conference for the purpose of clarifying the position of the parties in respect to the substantive claims and to explore the extent of any potential agreement on the various claims made.

[2] The purpose of this statement is to summarise the outcomes from the conference as I understand them and to indicate any action items that various participants agreed to undertake.

[3] Consistent with the directions set on 9 June 2017, parties provided written confirmation of the matters they intend to pursue and the nature of the change sought. Some possible draft variations in respect to Items S2 and S7 were also provided by HSU prior to the conference. I note that United Voice tabled a hard copy of draft variations in respect to Items S6 and S16 during the conference. **(Action item: United Voice undertook to provide an electronic copy of the document to the Fair Work Commission (the Commission) and the other parties).**

[4] Notwithstanding the provision of the written materials from parties which indicated matters which they intended to pursue and matters they are no longer pressing, the discussion at conference led to clarification of the actual intentions of the parties. The discussion took place with reference throughout to the summary prepared by the Commission. My understanding of the outcome in respect to each of the parties is as follows:

#### **United Voice (UV)**

*Substantive variations that UV continue to press*

- Item S6: variation to the clothing and equipment allowance clause.
- Item S16: variation to the sleepover clause.

- Item S21: variation to the classifications in Schedule B.4 with reference to a person who holds Cert III.

*Substantive variations that UV no longer press/withdraw*

- UV have not withdrawn any claims for substantive variations.

## **Health Services Union (HSU)**

*Substantive variations that HSU continue to press*

- Item S2: inclusion of On-call and Recall provisions.
- Item S4: payment of casual loadings to casual employees in addition to weekend and public holiday rates.
- Item S5: allowances - inclusion of phone allowances and on-call/recall allowances and reimbursement of first aid certificate costs.
- Item S7: a provision for damaged clothing allowance.
- Item S12: deals with periods of minimum engagements (**Action Item: the HSU is still considering its position and will advise the Commission by no later than Friday, 28 July 2017 as to whether they continue to press this claim**).

*Substantive variations that HSU no longer press/withdraw*

- HSU no longer press the claims set out at Items S8, S10, S11, S13, S14, S17 (Item S17 is effectively dealt with in S4), S18 and S20.

## **Australian Nursing and Midwifery Federation (ANMF)**

- The ANMF advised that in respect of the claim at Item S1 for the telephone advice payment they are currently opposed to the claim but await the draft variation before determining their position. The ANMF position will partly depend on whether an on-call allowance is included in the variation.
- The ANMF also clarified that they are opposed to the claim at Item S9 for greater flexibility in roster variation.
- The ANMF indicated that they support UV's claim at Item S21 in respect to the classification definition of employees with a Certificate III. The ANMF undertook to circulate a copy of the decision [[2009] AIRCFB 967] which it thought was relevant to the consideration of the matter at Item 21 which was circulated to parties on 20 July 2017.

## **Aged Care Employers**

*Substantive variations that Aged Care Employers continue to press*

- Item S1: the telephone advice payment.
- Item S5: Aged Care Employers indicated they have an interest in this claim as to how it applies to on call and recall provisions.
- Item S9: greater flexibility for roster changes.

*Substantive variations that Aged Care Employers no longer press/withdraw*

- Item S3: Part-time employees.

## General matters

[5] The parties agreed that Item S19 Ceremonial Leave was now agreed and is reflected in the most recent exposure draft of the Award.

[6] It was agreed that it was likely that there would be at least some mutual interest between the parties in respect to the claims at Items S1, S2 and S5.

[7] The various parties have undertaken to consult further with their membership on the practical impact of various claims that have been made in order to assist in further conferences discussing the issues.

[8] With respect to the damaged clothing allowance, the HSU indicated that it was open to dealing with the matter by expanding the application of the laundry and uniform allowance.

## Next steps

[9] Parties were reminded that they are to comply with the Directions issued by President Justice Ross on 9 June 2017. I expect that the parties will meet soon after and subsequent to the filing date of Friday, 28 July 2017 and in any event before the next conference to be listed before me at **9:30am on Wednesday, 23 August 2017 in Sydney.**



COMMISSIONER

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