



Fair Work Commission: 4 yearly review of modern awards

SUBMISSIONS: GROUP 4 AWARDS

AUSTRALIAN BUSINESS INDUSTRIAL

- and -

THE NSW BUSINESS CHAMBER LTD

15 APRIL 2019

BACKGROUND

1. These submissions relate to the exposure drafts for Group 4 awards.
2. In a statement issued on 13 February 2019 the Commission provided an overview of the status of the award stage of the 4 yearly review of modern awards and a timeline for the finalisation of exposure drafts.
3. The Commission directed interested parties to file written submissions on the updated exposure drafts published in March 2019.
4. These submissions are made on behalf of Australian Business Industrial (**ABI**) and the New South Wales Business Chamber Ltd (**NSWBC**). ABI is a registered organisation under the *Fair Work (Registered Organisations) Act 2009*. NSWBC is a recognised State registered association pursuant to Schedule 2 of the *Fair Work (Registered Organisation) Act 2009*.
5. ABI and NSWBC have a material interest in the following Group 4 awards which are dealt with in these submissions:
 - (a) Broadcasting, Recorded Entertainment and Cinemas Award;
 - (b) Educational Services (Teachers) Award; and
 - (c) Hair and Beauty Industry Award.
6. ABI and NSWBC also have a material interest in the following Group 4 awards:
 - (a) Amusement, Events and Recreation Award;
 - (b) Cemetery Industry Award;
 - (c) Children's Services Award;
 - (d) Dry Cleaning and Laundry Industry Award;
 - (e) Food, Beverage and Tobacco Manufacturing Award;
 - (f) Funeral Industry Award;
 - (g) Hospitality Industry (General) Award;
 - (h) Journalist Published Media Award;
 - (i) Professional Employees Award;
 - (j) Restaurant Industry Award 2010;
 - (k) Racing Clubs and Events Award; and
 - (l) Supported Employment Services Award.
7. Our clients have reviewed the revised exposure drafts for these awards but have no submissions to make at this point in time.
8. Our clients also have an interest in the Registered and Licensed Clubs Award and intend to review the updated exposure draft when it is released on 15 April 2019.
9. ABI and NSWBC appreciate the opportunity to provide the following submissions on the Group 4 award exposure drafts.

BROADCASTING, RECORDED ENTERTAINMENT AND CINEMAS AWARD

Clause 14.3(d)

10. Parties are asked if clause 14.3(d) should be updated for mobile phone costs.
11. Our clients do not oppose an amendment to clause 14.3(d) that would require an employer to reimburse an employee for reasonable costs incurred in using a personal mobile phone for business purposes.
12. Any amendment should be expressed not to apply in situations where an employer provides the employee with a mobile phone and pays for business related costs.

EDUCATIONAL SERVICES (TEACHERS) AWARD

Clause A.2.12

13. Parties are asked whether a system of RDOs may apply to employees in services operating for less than 48 weeks per year and if so, should clause A.2.12 be moved to clause 15?
14. Schedule A is expressed to cover “teachers employed in early childhood services operating for at least 48 weeks per year”. Despite this, clause A.2.12 clearly envisages a rostered day off system applying to services that operate for less than 48 weeks per year.
15. Rostered days off are dealt with exclusively by clause A.2. There are no rostered day off provisions elsewhere in the award. Clause 15 deals with hours of work for teachers other than those employed in an early childhood service which operated for 48 or more weeks a year.
16. Clause A.2.12 deals with the maximum number of rostered days off that can be accrued by employees working in centres operating for less than 48 weeks per year.
17. Clause A.2.12 must be read in context with the rest of clause A.2 which deals with how rostered days off are to be accrued and taken.
18. Whilst moving clause A.2.12 to clause 15 would resolve the coverage issue identified in the exposure draft, it has the potential to create further issues by taking the clause out of context.
19. Our clients submit that a better approach would be to remove the whole of clause A.2 from Schedule A, inserting it into the main body of the award and prefacing it with words to the effect of:

“This clause applies only to teachers employed in a children’s service or early childhood education service.”

HAIR AND BEAUTY INDUSTRY AWARD

Clause 22.3

20. Parties have been asked to clarify whether overtime is payable for work on Monday-Saturday outside ordinary hours in clause 13.1.

21. Our clients submit that for casual employees overtime is not payable outside the span of hours. It is only payable for the two occasions contemplated by clause 22.3, which are when a casual employee works in excess of 38 hours or in excess of 10.5 hours per day.
22. Our client submits that the current wording of the clause does not refer to clause 13.1 and therefore overtime for casuals is only payable in the circumstances outlined at clause 22.3(a).

Clause 23.1

23. Parties have been asked to clarify the rate of pay for a full-time or part-time employee on a Saturday outside ordinary hours.
24. Our clients submit that hours worked in excess of ordinary hours on a Saturday (i.e. those hours outlined in clause 13.1) will be payable in accordance with clause 22.2.



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On behalf of Australian Business Industrial and the NSW Business Chamber Ltd

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