



Fair Work Commission: 4 yearly review of modern awards

**SUBMISSION: EDUCATIONAL SERVICES (POST-
SECONDARY EDUCATION) AWARD**

AUSTRALIAN BUSINESS INDUSTRIAL

- and -

THE NSW BUSINESS CHAMBER LTD

24 NOVEMBER 2017

BACKGROUND

1. On 30 October 2017, the Fair Work Commission (the **Commission**) published a decision relating to a number of Group 3 awards as part of the 4 yearly review of modern awards (the **October Decision**).¹ Additionally, in early November 2017 a revised exposure draft for the Educational Services (Post-Secondary Education) Award was republished.
2. Interested parties have been given an opportunity to comment on certain issues that were raised in the October Decision, and to provide feedback in relation to the accuracy of the revised exposure drafts.
3. This submission is 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*.
4. ABI and NSWBC appreciate the opportunity to provide this submission.

COMMENTS IN RELATION TO THE EDUCATIONAL SERVICES (POST-SECONDARY EDUCATION) AWARD

5. Our clients do not have any specific feedback in relation to the **accuracy** of the revised exposure draft released in early November 2017.
6. We make the following brief submissions in relation to the outstanding items in the summary of submission document prepared by the Commission on 10 October 2017, as requested at paragraphs [89], [93] and [94] of the October Decision.
7. Item 12: we confirm that our clients do not oppose the drafting proposed by the NTEU.
8. Item 25: our clients are content for the matter to be dealt with by the presently constituted Full Bench. Though it is not necessary to make a submission in relation to the specific issue raised by the NTEU (in respect of whether the proposed clause 20.2 is inconsistent with the NES) we confirm our clients' view that it is not inconsistent. Section 115(3) of the Act specifically provides for the ability to substitute public holidays in the manner set out in the proposed clause 20.2.
9. Item 8: our clients agree with BusinessSA's submission in respect of clause 9.3 and meal breaks. This accords with the existing provision set out at clause 22.3(c).
10. Item 10: we support the submission made by BusinessSA.

¹ [2017] FWCFB 5536.

11. Item 13: we reiterate our submission of 15 April 2016; we do not oppose the continuation of rounding rules for annual and weekly rates.
12. Item 14: we support the submission made by BusinessSA.
13. Item 15: we do not oppose the submission made by the NTEU.
14. Item 16: we support the submission made by BusinessSA.
15. Item 19: we oppose the submission made by United Voice. The table at clause 13.2(a) of the exposure draft is necessary to determine the applicable rate for shift workers working at different times. No such confusion arises in the calculation at clauses 14.1(a), 14.1(b) or 14.1(c)(i), rendering the amendment unnecessary.
16. Item 24: we support the submission made by BusinessSA.
17. Item 29: we reiterate our submission of 15 April 2016.



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

24 November 2017