



**A•S•U**  
Australian Services Union

## **ASU Submission**

### **4 Yearly Review of Modern award**

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

AM2014/285

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<b>Date:</b>	9 May 2017

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## Introduction

1. The Fair Work Commission (the Commission) published Directions on 7 February 2017, amending dates for the four yearly review of the Social, Community, Home Care and Disability Services Industry Award 2010 (AM2014/285).
2. Item 4 of the Directions provided that:

**[4]** *Interested parties are to file a short submission confirming the substantive claims being pursued by **4pm Tuesday 21 March 2017**. The submission should include the following:*

  - (a) *the nature of the change sought;*
  - (b) *a draft variation determination;*
  - (c) *the type of case to be run (merits or evidentiary based); and*
  - (d) *if the case is evidence-based, how many witnesses will be called?*
3. The date for the filing of submissions was subsequently amended to Monday 8 May 2017. Draft Determinations are attached to these submissions.

### The nature of the change sought

4. The ASU refers to the submission filed by the ASU on 2 March 2015 and uploaded to the Commission website on 3 March 2015. The ASU deals with each of these proposed variations under the item number in which they appeared in the submission of 2 March 2015.

#### Item 4: Deletion of clause 4.2(d)

5. The ASU seeks deletion of clause 4.2(d) as this clause has resulted in the unintended consequence of employers classifying some employee working in the social and community services sector under the Health Professionals and Support Services Award 2010.
6. The ASU intends to run an evidentiary based case supported with witness evidence of between five to ten witnesses.

#### Item 5: Supplementation of NES redundancy entitlements

7. The ASU no longer pursues this claim.

#### Item 6: Broken shifts

8. The ASU seeks payment of an allowance and/or penalty rate to employees who work a broken shift in accordance with clause 25.6.
9. The ASU intends to run an evidentiary based case supported with witness evidence of between five to ten witnesses.

#### Item 7: Sleepovers

10. The ASU no longer pursues this claim as the ASU has reached a consent position with other parties on a draft Sleepover clause that has been filed with the Commission.

#### Item 8: Improvements to the Classification Definitions

11. The ASU will continue to have discussions with employer associations with the intention of reaching a consent position with employers on improving classification definitions.

#### Item 9: Community language skills

12. The ASU is seeking to implement a payment of an allowance to employees who use community language skills during the course of their employment.

13. The ASU intends to run an evidentiary based case supported with witness evidence of between five to ten witnesses.

#### Item 10: Payment of leave loading on termination

14. The ASU no longer pursues this claim in matter AM2014/285 as the Commission deals with payment of leave loading on termination in the Annual Leave common matter.

15. Draft determinations for the matters the ASU pursues are attached.

**Australian Services Union**

**9 May 2017**

# DRAFT DETERMINATION

*Fair Work Act 2009*  
s.156 - 4 yearly review of modern awards

**4 yearly review of modern awards –  
(AM2014/285)**

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

[MA000100]

Social, Community, Home Care and Disability Services Industry

COMMISSION MEMBER

PLACE, DATE

Further to the Decision issued by the Fair Work Commission on [ ] the above award is varied as follows:

[1] By deleting clause 4.2 and inserting in lieu thereof:

4.2 The award does not cover employers and employees covered by any of the following awards:

- (a) *Aged Care Award 2010*;
- (b) *Amusement, Events and Recreation Award 2010*;
- (c) *Fitness Industry Award 2010*;
- (d) *Nurses Award 2010*.

[2] The determination shall operate on and from [ ] .

BY THE COMMISSION

# DRAFT DETERMINATION

*Fair Work Act 2009*  
s.156 - 4 yearly review of modern awards

## **4 yearly review of modern awards – (AM2014/285)**

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

[MA000100]

Social, Community, Home Care and Disability Services Industry

COMMISSION MEMBER

PLACE, DATE

Further to the Decision issued by the Fair Work Commission on the above award is varied as follows:

[1] By deleting clause 25.6 and inserting in lieu thereof:

#### **25.6 Broken shifts**

This clause only applies to social and community services employees when undertaking disability services work and home care employees.

- (a) A **broken shift** means a shift worked by an employee that includes one or more breaks (other than a meal break) and where the span of hours is not more than 12 hours.
- (b) An employee who works a broken shift will receive:
  - (i) Ordinary pay plus a loading of 15% of their ordinary rate of pay for each hour from the commencement of the shift to the conclusion of the shift inclusive of all breaks; and
  - (ii) penalty rates and shift allowances in accordance with clause 29—Shiftwork, with shift allowances being determined by the finishing time of the broken shift.
- (c) All work performed beyond the maximum span of 12 hours for a broken shift will be paid at double time.

- (d) An employee must receive a minimum break of 10 hours between broken shifts rostered on successive days.

[2] The determination shall operate on and from [ ].

BY THE COMMISSION

# DRAFT DETERMINATION

*Fair Work Act 2009*  
s.156 - 4 yearly review of modern awards

## **4 yearly review of modern awards – (AM2014/47)**

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

[MA000100]

Social, Community, Home Care and Disability Services Industry

COMMISSION MEMBER

PLACE, DATE

A. Further to the Decision issued by the Fair Work Commission on the above award is varied as follows:

1. By inserting a new clause 20.10:

#### **20.10 Community Language and Signing Work**

**20.10.1** Employees using a community language skill as an adjunct to their normal duties to provide services to speakers of a language other than English, or to provide signing services to those with hearing difficulties, shall be paid an allowance in addition to their weekly rate of pay.

**20.10.2** A base level allowance shall be paid to staff members who language skills are required to meet occasional demands for one-to-one language assistance. Occasional demand means that there is no regular pattern of demand that necessitates the use of the staff members language skills. The base level rate shall be paid as a weekly all purposes allowance of \$45.00.

**20.10.3** The higher level allowance is paid to staff members who use their language skills for one-to-one language assistance on a regular basis according to when the skills are used. The higher level rate shall be paid as a weekly all purposes allowance of \$68.00.

**20.10.4** Such work involves an employee acting as a first point of contact for non-English speaking service users or service users with hearing difficulty. The employee identifies the resident's area of inquiry and provides basic assistance, which may include face-to-face discussion and/or telephone inquiry.

**20.10.5** Such employees convey straightforward information relating to services provided by the employer, to the best of their ability. They do not replace or substitute for the role of a professional interpreter or translator.

**20.10.6** Such employees shall record their use of community language skills.

**20.10.7** Where an employee is required by the employer to use community language skills in the performance of their duties

- a) the employer shall provide the employee with accreditation from a language/signing aide agency
- b) The employee shall be prepared to be identified as possessing the additional skill(s)
- c) The employee shall be available to use the additional skill(s) as required by the employer.

**2.10.8** The amounts at 2.10.2 and 2.10.3 will be adjusted in accordance with increases in expense related allowances as determined by the Fair Work Commission.

B. The determination shall operate on and from [ ].

BY THE COMMISSION