



Fair Work Commission: 4 Yearly Review of Modern Awards

SUBMISSIONS

**GENERAL RETAIL INDUSTRY AWARD 2017
PLAIN LANGUAGE AWARD SPECIFIC CLAUSES
(AM2014/270)**

3 AUGUST 2017

**AUSTRALIAN BUSINESS INDUSTRIAL
- and -
THE NSW BUSINESS CHAMBER LTD**

1. BACKGROUND

- 1.1 These submissions are filed on behalf of Australian Business Industrial (**ABI**) and the NSW Business Chamber Ltd (**NSWBC**) and relate to the plain language Award-specific clauses of the *General Retail Industry Award 2017 (Award)* published on 5 July 2017.
- 1.2 ABI is a registered organisation under the *Fair Work (Registered Organisations) Act 2009* (Cth) and has some 4,200 members.
- 1.3 NSWBC is a recognised State registered association pursuant to Schedule 2 of the *Fair Work (Registered Organisation) Act 2009* (Cth) and has some 18,000 members.
- 1.4 ABI and NSWBC have a material interest in the Four Yearly Review of the Award given that both entities represent numerous employers who are covered by the Award.
- 1.5 The same numbering as the revised plain language Exposure Draft has been used throughout these submissions, except where otherwise indicated.

2. CLAUSE 2 - DEFINITIONS

- 2.1 The definition of ‘shop with departments or sections’ differs from the definition in the current Award. ABI and NSWBC propose the following wording:

“Shop with departments or sections means a shop that has clearly distinguishable departments or sections, each of which has a dedicated manager and at least 3 subordinate employees who work solely or predominantly in that department or section.”

3. CLAUSE 7 - FACILITATIVE PROVISIONS FOR FLEXIBLE WORKING PRACTICES

Table 1

- 3.1 The reference to Clause 15.10(b) should be to Clause 15.10(a).
- 3.2 The table should also refer to:
 - (a) Clause 23.11(b) - Recall allowance (an individual employee); and
 - (b) Clause 29.10 - Substitution of shift for public holiday (the majority of employees).

4. CLAUSE 8 - TYPES OF EMPLOYMENT

- 4.1 The new Clause 8.3(c)(ii) does not contain words included in the current Clause 12.10. ABI and NSWBC propose the following wording:

“may return to full-time employment ~~at a~~ on a specified future date agreed in writing with the employer”.

5. CLAUSE 10 - PART TIME EMPLOYMENT

- 5.1 Clause 10.5 does not refer to the requirement that an agreement must include the fact that the minimum daily engagement is three hours. ABI and NSWBC submit this should be re-inserted, notwithstanding the reference at Clause 10.9.
- 5.2 Clause 10.8 should include a reference to the possibility that an agreement under Clause 10.5 may have subsequently been varied. For example:

“For each hour worked in excess of the ordinary number of ordinary hours agreed under clause 10.5 (or as varied as mentioned in clause 10.6), the part time employee must be paid at the overtime rate specified in Table 9 - Overtime rates.”

This wording is consistent with Clause 25.1(b).

6. CLAUSE 14 - CLASSIFICATIONS

- 6.1 Clause 14.2 should contain the words *“as determined by the employer”* at the end of the sentence, as per Clause 16.2 of the current Award.

7. CLAUSE 15 - ORDINARY HOURS OF WORK

- 7.1 ABI and NSWBC submit that the table at Clause 27.2(a) of the current Award is easier to understand than the wording at Clause 15.1 of the Exposure Draft, and that reverting to this format would be preferable.
- 7.2 Clause 15.11(e) has replaced the words *“disagree with the roster change”* from Clause 28.14(d) of the current Award with *“objects to the change before it takes effect”*. ABI and NSWBC submit that the wording of the current Award should replace the Exposure Draft wording.

8. CLAUSE 16 - BREAKS

- 8.1 Table 2 has omitted the reference to employees working less than 4 hours which is contained in the table at Clause 31.1(a) of the current Award. ABI and NSWBC submit this information should be re-inserted.

9. CLAUSE 23 - ALLOWANCES

- 9.1 The requirement at Clause 23.2 regarding notification of the requirement to work overtime has been changed from the current wording at Clause 20.1 of the Award. ABI and NSWBC submit that Clause 23.2(a)(ii) be amended to state:

“The employee was not provided with at least 24 hours’ notice of the requirement to work overtime”.

- 9.2 A reference to *“uniform”* as part of the definition of *“special clothing”* should be inserted into Clause 23.3(a), as per Clause 20.2(a) of the current Award.

10. CLAUSE 25 - OVERTIME

- 10.1 The reference to overtime being calculated on a daily basis found at Clause 29.2(d) of the current Award should be reinserted at Clause 25.1 of the Exposure Draft.

11. CLAUSE 29 - RATES OF PAY FOR SHIFTWORK

- 11.1 The operation of Clause 29.9 should be clarified so that it is clear whether or not this entitlement applies to all employees.

12. CONCLUSION

- 12.1 If you have any questions in relation to these submissions, please contact Kate Thomson on (02) 4989 1003.

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