



**THE UNION FOR WORKERS IN
RETAIL.FAST FOOD.WAREHOUSING.**

The Shop, Distributive and Allied Employees' Association

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NATIONAL PRESIDENT

Joe de Bruyn

NATIONAL SECRETARY

Gerard Dwyer

1 February 2018

Commissioner Lee
Fair Work Commission
11 Exhibition Street
MELBOURNE VIC 3000

Dear Commissioner,

**RE: AM2014/267 - 4 yearly review of modern awards – Fast Food Industry Award
2010 (FFIA)**

We write this letter in relation to the above matter which was before you in Conference on 1 December 2017. The SDA raised concerns at Conference regarding a new application filed by the Australian Industry Group (AiG) on behalf of its members to vary the part-time provisions contained in the FFIA as part of the 4 yearly review of modern awards.

The AiG filed a submission and draft determination on 30 November 2017, the day prior to Conference regarding substantive matters in the FFIA, to add an additional substantive claim and variation it wants to pursue. The additional substantive claim is to remove Clause 12 of the Award and introduce a new flexible part-time clause.

The AiG, on direction from the FWC, filed Outline of Submissions for variations sought in the FFIA on 2 March 2015 and 3 October 2016. These submissions did not contain an application to vary the part-time provisions in the Award.

More importantly, at no time during the Casual and Part-time Employment Full Bench proceedings, which they were fully engaged in, including in relation to the FFIA, was an application sought regarding the part-time provisions in the FFIA.

The SDA strongly objects to the FWC hearing this matter as part of the 4 yearly review of modern awards. Statements were issued by the FWC in 2014 which determined the conduct of the Review. The Statement issued by President Ross on 1 December 2014 set out the conduct of the Review and the approach to be adopted for dealing with the issues related to casual and part-time employment. The Statement provided a list of matters to be dealt with by the Casual and Part-time Employment Full Bench, which included part-time rostering provisions and patterns of hours.

The AiG sought changes to the casual and part-time employment provisions in 25 Awards, including the FFIA. The AiG were fully engaged in the Full Bench matter and all parties were aware of the Directions given to file variations sought. The AiG filed submissions to reduce the daily engagement of casual employees to less than the minimum of 3 hours currently required. At no time did the AiG seek to vary Clause 12, part-time rostering provisions.

Applications to include more flexible part-time provisions in other Awards were made and heard by the Casual and Part-time Employment Full Bench. These applications along with the applications which related to the FFIA have been finalised, and decisions and draft determinations have been published.

As this Full Bench has been finalised with regard to the FFIA, the AiG should not be afforded any further opportunity to make an application to vary the part-time provisions in the FFIA as part of the 4 yearly review of modern awards. Evidence was sought and presented to the Full Bench in relation to matters in the FFIA. Allowing the AiG to add this claim to the 4 yearly review **after** the Casual and Part-time Employment Full Bench has heard the matters relating to the Award is unfair and an unjust burden on the SDA and not in line with the process outlined by the FWC in the Statement of 1 December 2014.

It is also not appropriate for this matter to be dealt with in the Award stage. The Statement on 1 December 2014 clearly determined that:

[19] To ensure that the range of issues relating to casual and part-time employment are dealt with efficiently and to minimise the risk of inconsistent decisions it is appropriate that all matters pertaining to casual and part-time employment be dealt with by one Full Bench, the Casual and Part-time Employment Full Bench.

The SDA seeks that the FWC strike out the new application filed by the AiG to remove Clause 12 and introduce a flexible part-time provision in the FFIA, as part of the 4 yearly review of modern awards.

Yours Sincerely,



GERARD DWYER
SDA NATIONAL SECRETARY AND TREASURER

cc. President Ross
Deputy President Hatcher