



Fair Work Commission

4 yearly review of modern awards 2014

AM2017/50

## **Submission in Reply**

# **Hair and Beauty Industry Award 2010**

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Date: 22 February 2019

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1. The Shop Distributive and Allied Employees' Association (SDA) makes this submission in reply in accordance with the Directions issued by the Full Bench in its decision of 28 December 2018<sup>1</sup>.
2. The SDA makes these submissions in response to the submissions filed in this matter by the Ai Group on 25 January 2019.

#### **Notification of rosters – Roster notification**

3. At paragraph 10 of its submission, the Ai Group submits that the provisional view of the Full Bench limits the method contained in the proposed consent clause by which a roster is to be provided to employees. The SDA's initial claim was for the provision of the roster 'in writing' acknowledging that there may be many methods an employer can use to provide the roster in writing.
4. The SDA supports the position of the Ai Group that the provisional view does limit the methods of notification and the Commission should not depart from this element of the Parties' proposal.

#### **Notification of rosters – mutual and unilateral changes**

5. The SDA agrees with the submissions of the Ai Group that the new clause 29.3(i) proposed by the Commission amends the manner in which clause 29.4 currently works and that clause 29.4 should be maintained in the Award in its current form.
6. The SDA also submits that the Commission's proposed clause 29.3(a) conflates the variation of a roster due to unexpected operational requirements, contained in the current clause 29.2, and as proposed by the Commission's new clause 29.3(a)(ii) in the case of an emergency, and the current clause 29.4.
7. The current clause 29.2 provides only for a change of an employee's roster 'for a given day' due to unexpected operational requirements.
8. The consent clause proposed also only proposed a variation to a full-time employee's roster 'for a particular day' may be varied by the provision of at least 48 hours' notice if this is due to an unexpected change in operational requirements (..).

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<sup>1</sup> [2018] FWCFB 7874

9. The SDA submits that the clause proposed by the Commission, 29.3(a)(i) alters the intent of the variation to beyond a change on a 'given or particular day' and may lead to broader roster changes for the purpose of dealing with an emergency.

10. The SDA submits that to avoid the potential that the scope of the unilateral variation due to an emergency is broadened beyond a given or particular day, and to ensure that variations by mutual agreement are also reflected in a manner consistent with the current Award 29.4 and consistent with the decision of the Full Bench, that is, roster change under clause 29.3(ii) is only in circumstances of an emergency, the variation should be as follows:

29.2 Rosters for permanent employees must be notified to employees at least 14 days in advance.

29.3 A full-time employee's roster for a *particular day* may be changed by:  
(i) mutual agreement between the employer and employee; or  
(ii) the employer giving at least 48 hours' notice to the employee in the case of an emergency.

29.4 Rosters may be changed at any time by mutual agreement between the employer and employee.

29.5 An employee's roster may not be changed with the intent of avoiding payment of penalties, loadings or other benefits applicable. Should such circumstances arise the employee will be entitled to such penalty, loading or benefit as if the roster had not been changed.

11. As per our submission filed on 23 January, the above variation does not contain the proposed 29.3(b) and also confines 29.3 to full-time employees.