

## BEFORE THE FAIR WORK COMMISSION

*Fair Work Act 2009 (Cth)*

**Title of matter:** 4 yearly review of modern awards – *Social, Community, Home Care and Disability Services Industry Award 2010* – Substantive Issues

**Matter Number:** AM2018/26

**Section:** s.156

**Document:** Comments on revised survey

**Filed:** Pursuant to Statement 2 May 2019

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## Background

On 2 May 2019, the Full Bench of the Commission in matter AM2018/26 issued a Statement concerning a draft survey that had been distributed to parties in the Hearing on 17 April 2019, and comments that had been filed in the Commission in relation to the draft survey. The Commission published a revised draft survey, and invited further comment.

## Comments on Revised Survey

The Australian Federation of Employers and Industries makes the following comments concerning the revised draft survey content:

1. Firstly, the expression used in the Survey potentially indicates that it is directed to an individual, rather than an organisation. For example,
  - ‘The Commission requests that you complete the survey below...If you are unable or unwilling to complete the survey...’
  - ‘This survey should only be completed by you if you are currently covered by the SCHADSI Award...’
  - ‘You should only complete the survey once...’

We suggest the expression is adjusted so that the survey is directed to the organisation. This is particularly in the circumstances that:

- a. A person who receives a link to the survey may not be the most appropriate person in the organisation to complete the survey;
  - b. The organisation may delegate completion of the survey to someone other than the person who receives the survey;
  - c. The staff member/(s) responsible for completing the survey may themselves be covered by the SCHADSI Award;
  - d. It is important that a staff member completing the survey understands that they are doing so on the organisation’s behalf, as opposed to it being on their own behalf; and
  - e. On the current wording, it is still possible that more than one person in a single organisation could complete the survey, resulting in duplication of data.
2. Secondly, we remain opposed to the list described as being the ‘sector or sectors’ covered by the SCHADSI Award. This is for the following reasons:
    - a. The list is not taken exclusively from the wording in the SCHADSI Award.
    - b. The list on pages 1 and 2 of the survey includes broad operations, some of which are not exclusively covered by the SCHADSI Award. For example, the list includes

‘Community Transport,’ however there is also coverage for community transport in the Passenger Vehicle Transportation Award 2010.

- c. To the extent that the first page states ‘The SCHADSI Award covers the following sectors’ the Commission may be expressing a conclusion about the interpretation of the coverage provisions of the SCHADSI Award;
  - d. It is unclear how it will assist the Commission to have a break-down of the sector/sectors in which an employer operates, into one of the categories included on page 1 and 2 of the survey. Further, if the Commission considers it does assist to have a breakdown of the sectors in which the employer operates, it is unclear how it assists the Commission to have that breakdown of the sectors in terminology that goes beyond that used in the SCHADSI Award itself; and
  - e. As a result of the above concerns, we consider the reference to the current list may be misleading to survey participants and unnecessary.
3. Thirdly, in Question 5.1, the Survey asks ‘Did any of your casual employees work more than 38 hours per week?’ For completeness, we suggest the question is reframed to ‘did any of your casual employees work in excess of 38 hours per week or 76 hours per fortnight?’
  4. Fourthly, for Questions 7 and 10, we suggest the survey participant be instructed to ‘tick all relevant boxes.’ For larger SCHADSI organisations, operations may span across metropolitan, regional and rural areas.

We understand a Conference has been scheduled on Wednesday, 8 May 2019 to discuss the practical issues associated with the administration of the Survey.