

# IN THE FAIR WORK COMMISSION

## Variation of Awards on the Initiative of the Commission

AM2020/12

### SUBMISSIONS OF THE UFUA

1. This is a submission in response to the Fair Work Commission Statement of 1 April 2020 in relation to the Variation of awards on the initiative of the Commission ("**FWC Statement**").
2. The United Firefighters Union of Australia ("**UFUA**") submits that the *Fire Fighting Industry Award 2010* ("**the Award**") should be excluded from the proposed variation to Modern Awards outlined in the FWC Statement for the reasons outlined below.
3. In particular, the Award does not currently apply to any employees, and therefore, its variation would not assist in achieving the objectives outlined by the Full Bench in the FWC Statement. Varying the Award may also be contrary to the Modern Award objective.
4. Coverage of the *Fire Fighting Industry Award 2010* is limited to public sector career firefighters in Victoria and the ACT. Public sector career firefighters in other states, as well as the Northern Territory, are employed outside of the national system.
5. Aviation firefighters employed across Australia by Air Services Australia are excluded from coverage by clause 4.4 of the Award due to the operation of the Airservices Australia Enterprise Award 2016.
6. The Award also covers a smaller number of career firefighters in the private sector, all of which are employed by the contractor, Broadspectrum. All firefighters covered by the Award, either in the public sector in Victoria and the ACT or the private sector in various states, are employed under and covered by Enterprise Agreements. There is no

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indication that this will change in the time period targeted by the Commission (at paragraph [72], pg. 20 of the FWC Statement).

7. There are no small businesses engaged in the firefighting industry.
8. The fire fighting industry has not been impacted in the same way as other industries have been, including those industries which have been prioritised for the variation in the FWC Statement. Whilst the industry is public facing and therefore identified as 'at risk' in Professor Boland's analysis, arrangements for employees required to take leave due to COVID-19 leave either exist in the relevant Enterprise Agreements or have been agreed outside of them. The firefighting industry will otherwise continue as an essential service.
9. Referring to paragraph [110] of the FWC Statement, it is the intention of the Fair Work Commission to prioritise awards in industries that have been adversely impacted by the COVID-19 pandemic and have a high level of "award-reliance". Varying the *Fire Fighting Industry Award 2010*, despite the absence of any award-reliance employees covered by it, appears to be contrary to this intention.
10. As the proposed changes to the Award would have no application, they would not assist in fulfilling either of the Commission's objectives to:
  - i. address a 'regulatory gap' through the provision of unpaid leave (paragraph [66], pg. 19 of the FWC Statement)
  - ii. Provide employers and employees additional flexibility through the provision of leave at half pay (paragraph [72], pg. 20 of the FWC Statement)
11. The proposed variation, if applied to the *Fire Fighting Industry Award 2010*, would not assist in meeting the Modern Award objective. In particular, leave at half pay provisions may contradict clause 28.3 of the current Award, which requires leave to be taken in 28-day blocks at specified intervals to account for the specialised industry roster, being the 10/14 Firefighting Roster.
12. Inclusion of provisions for leave at half pay would create additional complexity in the Award that would be contrary to the Modern Award objective to ensure modern awards are simple and easy to understand.

13. For reasons outlined above, the UFUA respectfully submits that the *Fire Fighting Industry Award 2010* should not be varied.

**United Firefighters Union of Australia**  
6 April 2020