

FAIR WORK COMMISSION

**4 Yearly Review of Modern Awards**

**Matter No.: AM2014/209**

**Pharmacy Industry Award 2010**

**Submissions in Reply**

**Technical and Drafting Issues Related to the Exposure Draft and  
Outline of Submissions in Relation to Substantive Claims**



**Association of Professional Engineers, Scientists and Managers,  
Australia (APESMA)**

**DATE: 20 August 2015**

Lodged by: APESMA  
Address: PO Box 1272, MELBOURNE VIC 3001  
Tel: 03 9695 8804  
Fax: 03 9695 8846  
Email: [jbaulch@professionalsaustralia.org.au](mailto:jbaulch@professionalsaustralia.org.au)

## **INTRODUCTION**

1. This submission by APESMA is made in reply to the submissions made by interested parties in relation to the technical and drafting issues related to the exposure draft released by the Fair Work Commission for the Pharmacy Industry Award 2010, and the outline of submissions in relation to substantive claims being pursued.
2. We make this submission in accordance with the Statement and amended Directions issued by Justice Ross on 6 May 2015<sup>1</sup>.
3. APESMA supports the submissions made by SDA and HSUA and their submissions in reply.

## **TECHNICAL AND DRAFTING ISSUES**

4. In our submissions of 15 July 2015<sup>2</sup> APESMA indicated that the vast majority of technical and drafting issues regarding the exposure draft identified by the parties had been resolved by agreement and we attached a table outlining the outcome of that agreement.
5. The submissions filed by the other interested parties confirm that agreement had been reached.
6. In these submissions the parties also provided submissions on the matters where no agreement was able to be achieved. APESMA relies on our submissions of 15 July 2015<sup>3</sup> and particularly those of the SDA in relation to these outstanding issues.

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<sup>1</sup> [2015] FWC 3148

<sup>2</sup> APESMA, AM2014/209, Submissions On Technical and Drafting Issues Related to the Exposure Draft And Outline of Submissions in Relation to Substantive Claims, 15 July 2015

<sup>3</sup> *Ibid*

## **SUBSTANTINVE CLAIMS**

7. The Pharmacy Guild of Australia (PGA) in their submissions of 15 July 2015<sup>4</sup> indicated that they are seeking four substantive changes to the Pharmacy Industry Award. Those changes being:

- Direction to take annual leave
- Annualised salary for pharmacy assistants
- Minimum shift for part-time and casual school students to be set at 90 minutes per shift
- Penalty rates

8. We also note that they have indicated that some of these matters, such as their penalty rates claim, are currently being dealt with by the Full Bench of the Commission.

9. The PGA in their submission indicates that the remainder of their substantive claims that have not already been referred to a Full Bench should be referred to a separate Full Bench. We oppose these claims and have previously indicated this in discussions with the PGA and submissions. Consequently, we agree with the PGA that these matters should be referred to a separate Full Bench.

### **PGA Plain English Award Proposal**

10. The PGA, in their submissions of 15 July 2015<sup>5</sup>, discusses their proposal for a 'plain English Award' which they submitted to the Commission on 31 March 2015<sup>6</sup>. In this submission of 15 July 2015 they indicate that the parties have agreed this proposal will be addressed by the parties after the technical and drafting issues associated with the Exposure Draft have been finalised.

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<sup>4</sup> PGA, AM2014/209, Comprehensive Submissions on Technical and Drafting Issues, Outline of Submissions in Relation to Substantive Claims, 15 July 2015

<sup>5</sup> Ibid

<sup>6</sup> PGA, AM2014/209, Review of the Pharmacy Industry Award 2010 [AM 000012] (Group 2B) – Plain English Draft, 31 March 2015

11. APESMA and other parties have agreed to discuss this proposal with the PGA once the technical and drafting issues have been finalised and we continue to be happy to do so.
12. However, we note that the PGA have not indicated in their submission of 15 July, 2015 whether they see this issue as a substantive claim and if they seek to have it referred to a Full Bench if agreement is not achieved through discussions between the parties.
13. Whilst union parties agreed to discuss the “Plain English award” proposal with the PGA, APESMA and the other union parties have significant concerns with it and believe that a number of the proposals seek to change the effect and meaning of some of the clauses contained in the current Award and the Exposure Draft.
14. If we are not able to reach agreement with the PGA in discussions APESMA believes that if the PGA seek to continue to pursue this proposal that it should be treated as a substantive claim and that it should be referred to a separate Full Bench.

Submitted by:



**Jacki Baulch**

Senior Industrial Officer, National Office

**APESMA**