



REPORT TO THE FULL BENCH

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

CLERKS – PRIVATE SECTOR AWARD 2010

(AM2014/219) [MA000002]

DEPUTY PRESIDENT CLANCY

MELBOURNE, 3 JUNE 2016

Clerks – Private Sector Award 2010

CLERKS – PRIVATE SECTOR AWARD 2010

[1] A conference was held in Melbourne, with video links to Sydney and Adelaide on 30 May 2016 attended by representatives of:

- The Australian Municipal, Administrative, Clerical and Services Union (ASU)
- Business SA
- Ai Group
- The Australian Federation of Employers and Industries
- Australian Business Lawyers and Advisors representing Australian Business Industrial and the NSW Business Chamber

[2] The parties discussed the exposure draft of the *Clerks – Private Sector Award 2015* as published on 18 December 2015 and the Summary of Submissions dated 23 May 2016 published by the Commission.

[3] Proposed variations to the exposure draft that were agreed by the parties are summarised in Attachment A.

[4] Proposed variations from the Summary of Submissions that are not agreed are summarised at Attachment B.

[5] Items from the Summary of Submissions which remain under consideration by the parties and may benefit from further discussions are summarised at Attachment C.

[6] It was noted that items 27 and 46 have been referred to separately constituted Full Benches of the Commission.

[7] Items 8, 17, 31, 41, 45 arise from Fair Work Ombudsman queries but were not comprehensively addressed at the conference.

[8] The parties answered the Commission's question regarding clause 8.2 (Item 18) in the affirmative.

[9] The parties were not opposed to the deletion of words from clause 13.3(b)(i) that has been suggested by the Commission (**Item 35**).

[10] The Commission has previously proposed combining the Legal Services Award 2010 and the Clerks – Private Sector Award 2010 due to the uniformity of their provisions and has asked interested parties to consider the benefits of merging these two awards. The views of the parties remain mixed. The ASU and the Law firms (the latter of which participated in discussions concerning the Legal Services Award 2010) are opposed. Australian Business Industrial and the NSW Business Chamber consider there is utility in maintaining separate awards. The AFEI and the Ai Group do not consider it necessary to merge the two awards, while Business SA does not have a position either way.

[11] There were no further submissions on item 2.



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Attachment A

- Item 3 – the reference to clause “13.5(c)” should be substituted with “13.6(a)”
- Item 6 – delete the words “who do the same kind of work” from clause 6.2(a)(iii)
- Item 7 – amend clause 6.3(d) to read as follows:

“Casual employees are entitled to a minimum payment of three hours’ work for each engagement at the appropriate rate.”

- Item 11 – the words “per week” should be inserted after “38”
- Item 12 – amend clause 8.1(c) to read as follows:

“Where an employee works in association with other classes of employees who work ordinary hours outside the spread prescribed by clause 8.1(b), the hours during which ordinary hours may be worked are prescribed by the modern award that applies to the majority of employees in a workplace.”

- Item 13 – wording to be amended as per those contained in the submissions of Ai Group of 14 April 2016
- Item 14 – the word “span” should be substituted with “spread”
- Item 15 – clause should be amended to read “...ordinary hours outside the span prescribed by clause 8.1(b)”
- Item 16 – the word “span” should be substituted with “spread”
- Item 19 – the word “span” should be substituted with “spread”
- Item 20 – the first time the word “by” is used, it should be replaced with “be”
- Item 21 – reference should be to clause 8 generally
- Item 24 – the word “taken” after the word “break” in the second line to be deleted in clause 9.2(c)
- Item 25 – insert “(full-time employees)” below “minimum weekly rate” in the second column of clause 10.1
- Item 26 – delete “due to their rostered hours” and insert “by virtue of the arrangement of their ordinary hours.”
- Item 28 – the clause 10.5 “higher duties allowance” to be relocated and made a sub-clause under clause 11
- Item 29 – clause 11.3(a) to be amended as follows:

“The employer will reimburse an employee working shift work for the cost of any transport to their home when an employee starts or finishes work at a time other than their normal time. This amount will only be paid if reasonable means of

transport are not available. The amount will not be paid if the employer provides suitable transport.”

- Item 30 – as per item 29 above
- Item 33 – the word “span” should be substituted with “spread”
- Item 34 – the words “where possible” should be substituted with “wherever reasonable practicable”
- Item 36 – the word “time” should be deleted from the first bullet point
- Item 37 – the word “during” should be deleted from the first bullet point
- Item 38 – the reference to clause “13.1” should be amended to read clause “13.2”
- Item 42 – clause 14.5(b) and (c) should be consolidated and the reference should be to clause 13.6(a)
- Item 43 – clause 14.7 should be replaced by clause 28.7 of the current Award.

Attachment B

- Item 4
- Item 10
- Item 40
- Item 44

Attachment C

- Item 5
- Item 9
- Item 22
- Item 23
- Item 32
- Item 39
- Item 47
- Item 48