

IN THE FAIR WORK COMMISSION

4 Yearly Review of Modern Awards

National Disability Services

Submission - AM2014/285

Technical and drafting matters - *Social, Community, Home Care and Disability Services Industry Award 2010*

1. This submission is made pursuant to the Statement of the Fair Work Commission of 28 February 2019 and addresses the exposure draft of the *Social, Community, Home Care and Disability Services Industry Award 2010* issued 15 March 2019.
2. We submit that the notes at Clause 15.1 are not an accurate reflection of the decision of the Full Bench in [2018] FWCFB 4175.
3. We broadly agree with the submission of the Australian Services Union (ASU) of 12 April 2019 regarding the notes at Clause 15.1 but propose some alternative wording for amendments to the draft.
4. Employees covered by the classifications in Schedules B and C may be covered by an Equal Remuneration Order (ERO) [PR525485], or by a Transitional Pay Equity Order. The two instruments are separate but the draft note 2 implies the terms are interchangeable.
5. Note 1 should have the following words added at the end of the note:

and may apply to employees in the classifications in Schedules B and C of this modern award.
6. The new words in Note 2 should be deleted.
7. Note 2 should have the following words added at the end of the note:

unless a transitional pay equity order has effect.
8. Note 2 at Clause 15.1 refers to Schedules A and C. The correct references in the current exposure draft would be Schedules B and C. If the current Schedule A is deleted as proposed in the exposure draft, then we anticipate that renumbering would change these to Schedules A and B.
9. We agree with the ASU that a new Note 3 should be added, but we propose amendments to the ASU wording (changes underlined) to assist with clarity as follows:

3. An additional payment in accordance with either the applicable transitional pay equity order or the applicable equal remuneration order may be required.
10. The note at Clause 15.3 should be deleted because no Transitional Pay Equity Order applies to Home Care employees.