

**IN THE FAIR WORK COMMISSION**

**Matter No: AM2016/3**

**Section 156 - Four Yearly Review of Modern Awards – *Exposure Drafts –Tranche 1***

**SUBMISSION OF UNITED VOICE**

1. This submission is made pursuant to the Directions of the Fair Work Commission (‘the Commission’) as outlined in the Decision dated 2 September 2019 (‘the Decision’).<sup>1</sup> In the Decision, the Commission sets out the process for finalising the technical and redrafting process of modern awards. Interested parties were directed to file any submissions on the exposure drafts in tranche 1 by 20 September 2019.

2. United Voice has a relevant interest in the following awards in tranche 1:

*Ambulance and Patient Transport Industry Award*

*Animal Care and Veterinary Services Award*

*Car Parking Award*

*Cemetery Industry Award*

*Corrections and Detention (Private Sector) Award*

*Funeral Industry Award*

*Water Industry Award*

3. We note that Attachment A to the Decision lists all submissions received in response to exposure drafts published February and March 2019. United Voice made a submission on the Registered and Licensed Clubs Award Exposure Draft on 10 May 2019. This submission is not listed in Attachment A.

4. Reference to clause numbers within this submission is to the relevant Exposure Draft, unless indicated.

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<sup>1</sup> [2019] FWCFB 6077.

5. We make the following comments in respect of the tranche 1 awards:

***Ambulance and Patient Transport Industry Award***

6. Clause 16.1(b) – there is a typo (‘ss’) just prior to ‘*Administrative Officer Band 3*’.
7. Clause 22.3(a) – In the latest Exposure Draft with tracked changes ‘*penalties*’ has been crossed out and replaced with ‘*allowances*’. The current Award clause 30.4 states that payment for annual leave will include ordinary time wages including ‘*any allowances, loading, shift penalties or over award payments which would have been received had the employee not been on leave.*’ Shift penalties are expressly included. The Ambulance Award contains both shift allowances (clause 18.2(g)) and shift penalties (clause 21.1). The exclusion of shift penalties would be a substantive change, and could result in a reduction in employee’s annual leave entitlements.
8. Clause 22.3(a) should be amended as follows:

*‘Before going on annual leave, an employee will be paid the amount of wages they would have received for ordinary time worked had they not been on leave during that period. This includes any allowances, loading, shift allowances, penalties or over-award payments which would have been received had the employee not been on leave.’*

***Animal Care and Veterinary Services Award***

9. In the Decision<sup>2</sup> dated 27 August 2019, the Commission noted that this Award has a more beneficial notice of termination period for employees, and determined that this would be retained (with an amendment to ensure that employees over 45 years or age with more than 5 years’ continuous service are entitled to 5 weeks’ notice). This amendment has been made to the current Award (clause 11.1(b)) but it is not reflected in clause 31 of the Exposure Draft. The Exposure Draft should be amended to reflect clause 11.1(b) of the current Award.
10. Clause 15.7(ii) Higher duties of the Exposure Draft does not appear to accurately reflect the current clause 16.2(c)(ii). The current clause places a limitation on the maximum period of time an employee (who is not a veterinary surgeon) can be required to temporarily perform work at a lower classification (one week) and stipulates that an employee must not suffer any reduction in wages over that period.

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<sup>2</sup> [2019] FWCFB 5409, see paragraph [56].

11. Clause 16.2(c)(ii) of the Award states:

*'(ii) Any employee who is required to perform work temporarily for which a lower rate is paid must not suffer any reduction in wages whilst so employed; provided that any work of less than one week's duration will be deemed to be temporary.'*

12. Clause 15.7(ii) of the Exposure Draft states:

*'(ii) Any employee who is required to perform work for which a lower rate is paid must not suffer any reduction in wages; provided the duration of the work is less than one week.'*

13. Clause 15.7(ii) of the Exposure Draft appears to suggest that if an employee was required to work at a lower classification for a period of over one week, the employer may be able to pay the employee a lower wage rate. This deviates from the current clause, and is detrimental to employees. This matter does not appear to have been raised or addressed in the previous proceedings on the technical and re-drafting process.

14. United Voice proposes that clause 15.7(a)(ii) of the Exposure Draft is re-worded as follows:

*'(ii) Any employee who is required to temporarily perform work for which a lower rate is paid for must not suffer any reduction in wages. An employee may be required to temporarily perform work at a lower classification for a period of less than one week.'*

**United Voice  
20 September 2019**