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AM2015/1  
Submissions in  
Response to Statement  
[2017] FWCFB 3865  
Unpaid Domestic  
Violence Leave

28 July 2017



Australian  
Chamber of Commerce  
and Industry

1. We refer to the Statement [2017] FWCFB 3865 (**Statement**) made in these proceedings AM2015/1 - 4 yearly review of modern awards – Family & Domestic Violence Leave Clause.

#### **Attachment A**

2. Attachment A of the Statement outlines all of the submissions and evidence in the proceedings to date. Parties are asked to confirm any amendments or additions to that list of material by Friday 28 July 2017.
3. We confirm that we cannot identify any amendments or additions to the list of material outlined at Attachment A.

#### **Attachment B**

4. Attachment B of the Statement contains draft directions in respect of AM2015/1. Interested parties are invited to comment on those draft directions by Friday 28 July 2017.
5. The Australian Chamber has no comments on the proposed draft directions, save for the observation that the proposed conference and hearing dates in AM2015/1 would provide a further basis to grant the extension sought by employer parties in AM2015/2, a matter which would otherwise be listed concurrently with these proceedings.
6. The Australian Chamber does not consider the concurrent hearing of these matters to be appropriate or practical.
7. The proposed draft directions would ensure that, if the Commission was minded to grant the proposed extension, the hearing weeks already reserved in AM2015/2 would be used productively for AM2015/1.

#### **Further Issues to be Addressed**

8. At [12] of the Statement, parties are asked to provide suggestions as to the further issues to be addressed in these proceedings by Friday 28 July 2017.
9. Incorporating the issues already identified in the Statement, the suggestions of the Australian Chamber are:

#### **Unpaid Domestic Violence Leave**

- (a) Should there be an entitlement to access unpaid domestic violence leave in Modern Awards?
- (b) If there is to be an entitlement to unpaid domestic violence leave in Modern Awards then:
  - (i) In what Modern Awards should the entitlement be inserted?
  - (ii) What is the extent of the entitlement to unpaid domestic violence leave (i.e. quantum)?

- (iii) In what circumstances would an entitlement to unpaid domestic violence leave arise? This question may require consideration of definitional issues regarding domestic violence for the purposes of the clause, the purposes for which unpaid leave could be accessed and who can access unpaid leave.
- (iv) Continuity of service issues.
- (v) Accrual issues.
- (vi) How would an employee access the entitlement (notice and evidentiary requirements)?
- (vii) Relationship/interaction with other forms of leave.

**Extension of the NES entitlement to personal/carers leave to domestic violence leave**

- (c) Does the Full Bench have jurisdiction to extend the NES entitlement to personal/carers leave to incorporate domestic violence leave?
- (d) If so, should the NES entitlement to personal/carers leave be extended to incorporate domestic violence leave?
- (e) If the NES entitlement to personal/carers leave can and is to be extended:
  - (i) In what Modern Awards should the entitlement be inserted?
  - (ii) In what circumstances could the NES entitlement to personal/carers leave be accessed for the purposes of domestic violence leave? This question may require consideration of definitional issues regarding domestic violence for the purposes of the clause, the purposes for which the leave could be accessed and who can access the entitlement.
  - (iii) Continuity of service issues.
  - (iv) Accrual issues.
  - (v) How would an employee access the entitlement (notice and evidentiary requirements)?
  - (vi) Relationship with other forms of leave?

## Australian Chamber Members

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