

Fair Work Commission

s. 156 - Four Yearly Review of Modern Awards

4 yearly review of modern awards – Clerks Private Sector Award 2010 – plain language exposure draft

AM2016/15

ASU document responding to the further issues identified during the conference on Friday, 15 September 2017:

1. The Commission at ¶155 requested a list of awards that contain clerical classifications. The ASU has been able to identify the Awards in the table below that contain either clerical classifications or functions to a greater or lesser degree. (For instance in the Timber Industry Award 2010 at B.4(c)(iii), the Level 4 general description of skills required *include ability to complete simple clerical tasks*).

Aboriginal Community Controlled Health Services Award 2010
Aged Care Award 2010
Airline Operations-Ground Staff Award 2010
Airport Employees Award 2010
Alpine Resorts Award 2010
Ambulance and Patient Transport Industry Award 2010
Animal Care and Veterinary Services Award 2010
Business Equipment Award 2010
Contract Call Centres Award 2010
Educational Services (Post-Secondary Education) Award 2010
Educational Services (Schools) General Staff Award 2010
Fitness Industry Award 2010
General Retail Industry Award 2010
Health Professionals and Support Services Award 2010
Higher Education Industry-General Staff-Award 2010
Horse and Greyhound Training Award 2010
Hospitality Industry (General) Award 2010
Hydrocarbons Industry (Upstream) Award 2010
Joinery and Building Trades Award 2010

Labour Market Assistance Industry Award 2010
Legal Services Award 2010
Meat Industry Award 2010
Oil Refining and Manufacturing Award 2010
Port Authorities Award 2010
Rail Industry Award 2010
Registered and Licensed Clubs Award 2010
Restaurant Industry Award 2010
Social, Community, Home Care and Disability Services Industry Award 2010
Sporting Organisations Award 2010
State Government Agencies Award 2010
Stevedoring Industry Award 2010
Supported Employment Services Award 2010
Telecommunications Services Award 2010
Timber Industry Award 2010
Transport (Cash in Transit) Award 2010
Wool Storage, Sampling and Testing Award 2010

2. Item 11:- *Coverage of on hire employees:* The ASU wants the wording dealing with on hire employees in the PLED maintained. The Award Modernisation Statement dated 25 September 2009 ([2009] AIRCFB 865), from ¶¶131-140, deals with award coverage of employees in the labour hire industry. At ¶139 the Commission noted that:

We have decided not to make a modern award for the labour hire industry, consistent with the general view of representatives of employers and employees. We think it is preferable that modern awards should be varied, where necessary, to extend their coverage to labour hire firms and their employees. This will result in a more consistent safety net as between direct and labour hire employees in the relevant industry.

The ASU believes that the PLED should continue to specifically maintain award coverage of labour hire firms and their employees as proposed by the Modernisation Full Bench.

3. Item 21:- Response to the Commission query that if at clause 10 of the exposure draft clause 10.2 was simply deleted. The ASU believes that clause 10.2 of the PLED should be maintained. It succinctly states, for the benefit of part time employees, how the Award applies to part time employees, at the clause where part time employees will likely initially go to in the Award.
4. Item 24:- Interaction of clause 10.1 and 11.1 in the PLED. The ASU submits that PLED clause 10.1 (essentially replicating Modern Award clause 11.1) should be maintained. The interaction of PLED clauses 10.1 and 11.1 could be resolved by words at the end of clause 10.1 to the effect that “unless the employees is specifically employed as a casual”.
5. Items 35 & 36:- The ASU supports the current wording of the PLED at clause 13.7(a) (ii). In the Commission’s suggested wording at ¶351 of the Transcript the Commission suggests that “13.7(b) simply says: “the other employees are covered by a different modern award that sets a spread of hours other than set out in clause 13.5;

that is, in effect it removes the reference to the majority”. The ASU believes that the removal of the word “majority” would substantially change the current operation of clause 25.1(b) of the Modern Award. The effect would be that, for instance, an employer covered by three Modern Awards would have unilateral discretion to determine the spread of hours from anyone of those three Modern Awards.

6. Item 38: Following on from items 35 & 36 the ASU does not oppose the example provided in the PLED below clause 13.7(b).
7. Item 39: The ASU supports the wording suggested by the Commission at ¶382:

Ordinary hours of work shall be (a) worked continuously and (b) otherwise worked at the discretion of the employer in accordance with the provisions of this award.
8. Item 55:- The ASU does not press the submission in regard to item 55.
9. Item 70:- Annualised salaries. The ASU agrees that this item should await the outcome in matter AM2016/13.
10. Item 136:- The ASU supports clause 19.1 of the Modern Award been amended in similar terms to the manner in which the Pharmacy Industry Award 2010 clause 19.6 was amended in the Pharmacy Industry Award PLED at clause 18.7.

Australian Services Union

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