



Fair Work Commission

## **4 Yearly Review of Modern award**

Response to FWC Statement ([2018 FWC 411]

**(AM2016/15) Clerks - Private Sector Award 2010**

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1. The Australian Municipal, Administrative, Clerical and Services Union (ASU) makes these submissions on the – Clerks - Private Sector Award 2010 – Plain Language Draft ('PLD') in accordance with the Statement ([2018 FWC 411] issued by the Fair Work Commission on 19 January 2018.

### **Outstanding Items**

#### *Coverage*

2. The Commission has identified four outstanding in relation to the coverage clause.

#### Item 5: Clause 4.1 of the revised PLED

3. The ASU makes no further submissions in respect to item 5.

#### Item 8: definition of 'clerical work' and the effect on the coverage clause

4. The ASU supports the definition of clerical work in the revised PLED. The definition is consistent with the Modern Award.

#### Item 9: clause 4.4 of the revised PLED and concerns the wording of the exclusion from coverage of employers covered by awards listed in that clause.

#### Subclause 4.3(a)

Addition of awards at clause 4.4 of the revised PLED.

5. The ASU submits that the wording in clause 4.3(a) and clause 4.4 of the revised PLED reflects the wording in clause 4.1(a) of the modern award. However the ASU is concerned about the addition of modern awards to the list of awards that exclude CPS Award coverage at clause 4.4 of the revised PLED.
6. Attached to this submission is a list of the proposed Awards to be included at clause 4.4 of the revised PLED. The Horse and Greyhound Training Award 2010, the Joinery and Building Trades Award 2010 and the Timber Industry Award 2010 contain a cursory classification of clerical functions to the extent that these Awards could not be described as containing clerical classifications in the sense that there are no more than one clerical classification in these respective Awards.
7. Further there is no consistency in the wording used for position descriptions and duties between the proposed awards to be included and the CPS Award. For instance the Local Government Industry Award 2017 and the Water Industry Award 2010 does not use the wording of “clerk” or “clerical” at all, preferring the use of the word “administrative”. Similarly other awards such as the Labour Market Assistance Industry Award 2017 and the al Government Industry Award 2017 use “clerk” or “clerical” fewer than three times.
8. The ASU has listed the comparable classifications, along with the ordinary hours of work, overtime and weekend penalties for each award that is proposed to be included in the attachment to this submission. As the Australian Industrial Relations Commission noted at item [222] in the Award Modernisation (AM2008/1–12) Decision ([2008] AIRCFB 1000) *“As other awards with clerical classifications are made throughout the process we propose to add these to the list in cl.4.3. When each other industry is dealt with the position of clerical employees will be considered. A relevant consideration will obviously be the extent and nature of award-covered employees in the industry”*. In the ASU’s submission the extent and nature of award covered employees of those awards listed by the Commission requires further deliberation before any amendments are considered.
9. In the ASU’s submission the addition of Awards to clause 4.4 of the revised PLED should be proposed at the time of reviewing those other Awards. The Commission states at item 15 of the Statement ([2018 FWC 411] *“Should parties make submissions in support of additional awards being included at clause 4.4, further consultation with parties interested in the relevant awards will occur”*, in the ASU submission this lends supports to an approach that at the least further additions to clause 4.4 of the revised PLED is not done at this point in time and requires wider consultation.

10. The ASU submits that there is already a mechanism for addressing coverage of Modern Awards with clerical/administrative classifications through clause 4.5 of the revised PLED.

*Item 11: on-hire provisions at clause 4.2 of the revised PLED*

11. The ASU makes no further submissions in respect of item 11.

*Part-time employment*

Item 21: Clause 10.2 of the revised PLED.

12. The ASU submits that maintaining the current award clause 11.2 *Part-time employees are entitled on a pro rata basis to equivalent pay and conditions to those of full-time employees* addresses concerns from other parties that the proposed clause 10.2 may have unintended consequences.

13. No anomalies in the operation of current award clause 11.2 have been identified, irrespective of whether a particular term or condition operated on a pro-rata basis or not. Maintaining the current award wording allows a part-time employee to determine the methodology for applying terms and conditions of employment to part-time employees.

*Casual employment*

Item 24: Clause 11.1.

14. The ASU does not oppose the wording suggested at ¶21 of the Statement.

*Classifications and Schedule A*

Item 146: Classifications and Schedule A

15. The ASU makes no further submissions in respect of item 146.

Item 5: Clause 4.1 and Item 26: Classifications

16. The ASU makes no further submissions in respect to items 5 and 26.

*Ordinary hours of work*

17. The ASU makes no further submissions in respect to item 38 at ¶38 of the Statement.

18. The ASU makes no further submissions in respect to items 39 and 40 at ¶41 of the Statement.

*Rostered days off*

19. The ASU submits that the wording of clause 14.2 in the amended PLED allows the employer to impose a rostered days off system. The ASU submits that clause 14.2 should be varied to read:

*An employer and employees at an enterprise may agree to establish a system of rostered days*

*off in such a way that the employees:*

20. The ASU makes no further submissions in respect to item 44.

*Breaks*

21. The ASU makes no further submissions in respect to item 54.

*Overtime*

22. The ASU makes no further submissions in respect to item 92.

*Rest period after working overtime*

23. The ASU makes no further submissions in respect to items 96 and 98 to 100.

*Substitution of public holidays*

24. The ASU makes no further submissions in respect to item 145.

*Schedule B—Summary of hourly rates of pay*

25. The ASU does not oppose the wording of the note at ¶161.

*Definition of minimum hourly rate*

26. The ASU does not oppose the wording for the definition of the minimum hourly rate at ¶166.

*Items related to the format and style of tables*

27. The ASU makes no further submissions in respect to items 4, 48, 49, 57, 59, 63, 65, 91 (in part), 110, 121 (in part), and 148.

*Shiftwork and items pending determination of shiftwork concerns*

28. The ASU makes no further submissions in respect to items 105 and 106.

29. The ASU makes no further submissions in respect to items 3, 27, 45, 77, 84 and 110 (in part).

**Australian Services Union**

**15 February 2018**

Awards in clause 4.4 of the Clerks—Private Sector Award 2017 exposure draft	Comparable Classifications	Ordinary Hours	Overtime	Weekend Penalties		Classification Hourly Rate
				Saturday	Sunday	
Clerks - Private Sector Award 2010	Level 1 Level 2 Level 3 Call centre principal customer contact specialist Level 4 Level 5 Call centre technical associate	7.00am - 7.00pm Monday to Friday 7.00am - 12.30pm Saturday	Time & half first 2 hours, double time thereafter	125%	200%	Level 1 Year 1 - \$738.80 Level 2 Year 1 - \$809.10 Level 3 - \$854.60 Call centre specialist - \$860.60 Level 4 - \$897.40 Level 5 - \$933.80 Call centre associate - \$1022.90
Aboriginal Community Controlled Health Services Award 2017*	B.2. Administrative Grade 1 Grade 2 Grade 3 Grade 4 Grade 5 Grade 6 Grade 7 Grade 8	7.00am - 7.00pm Monday to Friday (day worker), Monday to Sunday (shiftworker)	Time & half first 2 hours, double time thereafter	150% (shiftworker)	200% (shiftworker)	Administrative Grade 1, Level 1 = \$766.00 Grade 2, Level 1 = \$831.90 Grade 3, Level 1 = \$904.50 Grade 4, Level 1 = \$962.10 Grade 5, Level 1 = \$1041.80 Grade 6, Level 1 = \$1098.30 Grade 7, Level 1 = \$1250.40 Grade 8, Level 1 = \$1297.30
Ambulance and Patient Transport Industry Award 2017*	B.2. Clerical & Administration Band 1 Band 2 Band 3 Band 4		M-F - time & half first 2 hours, double time thereafter Sat & Sun - double time	150%	150%	B.2. Clerical & Administration Band 1, First Year - \$797.70 Band 2, First Year - \$899.20 Band 3 - \$1028.60 Band 4 - \$1089.60
Gas Industry Award 2017*	Grade 1 - Basic administration Grade 2 - Basic administration Grade 3 - Administration Grade 4 - Administration Grade 5 - Administration	7.00am - 6.00pm Monday to Friday	Time & half first 2 hours, double time thereafter	150%	200%	Grade 1 - \$721.00 Grade 2 - \$748.60 Grade 3 - \$777.10 Grade 4 - \$809.10 Grade 5 - \$866.90
Horse and Greyhound Training Award 2010*	clause 3.1: Training assistant - basic clerical work: training assistant means a person employed to perform general duties in the horse and greyhound training industry being duties which are not within the duties of any other classification in this award including general labouring, cleaning, minor maintenance duties incidental or peripheral to cleaning, ordering supplies, receiving deliveries and basic clerical work		Time & half first 3 hours, double time thereafter Sunday - double time			Training assistant - \$834.40
Hydrocarbons Industry (Upstream) Award 2010*	B.2.1 Hydrocarbons Industry Services Employee - clerical & administrative duties may be included. Entry level Level 1 Level 2	6.00am - 6.00pm Monday to Sunday	M-F - time & half first 2 hours, double time thereafter Sat - time & half first 2 hours, double time thereafter Sun - double time	150%	200%	B.2.1 Hydrocarbons Industry Services Employee - clerical & administrative duties may be included. Entry level - \$720.40 Level 1 - \$755.90 Level 2 - \$785.10
Joinery and Building Trades Award 2010*	Level 4 - simple clerical tasks: (c) Indicative of the tasks	6.00am - 7.00pm Monday to Friday	M-F - time & half first 2 hours, double time thereafter Sat until 12noon - time & half first 2 hours, double time thereafter Sat after 12noon - double time Sun - double time			Level 4 - \$767.80

Awards in clause 4.4 of the Clerks—Private Sector Award 2017 exposure draft	Comparable Classifications	Ordinary Hours	Overtime	Weekend Penalties		Classification Hourly Rate
				Saturday	Sunday	
Clerks - Private Sector Award 2010	Level 1 Level 2 Level 3 Call centre principal customer contact specialist Level 4 Level 5 Call centre technical associate	7.00am - 7.00pm Monday to Friday 7.00am - 12.30pm Saturday	Time & half first 2 hours, double time thereafter	125%	200%	Level 1 Year 1 - \$738.80 Level 2 Year 1 - \$809.10 Level 3 - \$854.60 Call centre specialist - \$860.60 Level 4 - \$897.40 Level 5 - \$933.80 Call centre associate - \$1022.90
Labour Market Assistance Industry Award 2017*	B.1. Administrative Administrative assistant Administrative officer	6.00am - 8.00pm Monday to Friday	M-F - time & half first 2 hours, double time thereafter Sat - time & half first 2	175%	200%	B.1. Administrative Administrative assistant Pay point 1 - \$787.00 Administrative officer Pay point 1 - \$906.00
Local Government Industry Award 2017*	B.1. Level 3 - entry level administrative employees Level 4 - administrative employees Level 5 - administrative employees Level 6 - administrative employees	6.00am to 6.00pm Monday to Friday (for majority of employees). Some other classifications have different span of hours.	M-F - time & half first 2 hours, double time thereafter Sat until 12noon - time & half first 2 hours, double time thereafter Sat after 12noon - double time Sun - double time	150%	175%	B.1. Level 3 - \$797.30 Level 4 - \$809.10 Level 5 - \$859.80 Level 6 - \$930.40
Meat Industry Award 2017*	B.3. Meat industry streams Level 3 - clerical/office tasks Level 4 - clerical/office tasks Level 5 - clerical/office tasks advanced Level 5 - clerical/office tasks advanced	6.00am - 8.00pm Monday to Friday	M-F - time & half first 3 hours, double time thereafter Sat - time & half first 3 hours, double time thereafter Sun - double time	150%	200%	B.3. Meat industry streams Level 3 - \$728.40 Level 4 - \$746.40 Level 5 - \$760.20 Level 6 - \$776.50
Oil Refining and Manufacturing Award 2010*	B.2. Clerical Level 1 Level 2 Level 3 Level 4 Level 5	6.00am to 6.00pm Monday to Friday	M-F - time & half first 2 hours, double time thereafter Sat - time & half first 2 hours, double time thereafter Sun - double time	150% for the first 2 hours & 200% thereafter	200%	B.2. Clerical Level 1 - Year 1 \$738.80 Level 2 - Year 1 \$809.10 Level 3 - \$854.60 Level 4 - \$897.40 Level 5 - \$933.80
Port Authorities Award 2010*	Level 3 - basic clerical/admin activities Level 4 - Perform activities above Level 3 Level 5 - Perform activities above Level 4 Level 6 - Perform activities above Level 5 Level 7 - detailed and complex clerical duties	6.00am to 7.00pm Monday to Friday	M-F - time & half first 3 hours, double time thereafter Sat - time & half	150%	200%	Level 3 - \$767.80 Level 4 - \$809.10 Level 5 - \$834.40 Level 6 - \$859.80 Level 7 - \$882.80
Registered and Licensed Clubs Award 2017*	C.5. Administration Grade 1 Grade 2 Grade 3 Clerical supervisor		M-F - time & half first 2 hours, double time thereafter Sat - time & three quarters first 2 hours, double time thereafter Sun - double time	150%	175%	C.5. Administration Grade 1 - \$742.30 Grade 2 - \$767.80 Grade 3 - \$809.10 Clerical supervisor - \$859.80
Restaurant Industry Award 2017	B.4. Administrative & general Grade 1 Grade 2 Grade 3 Clerical supervisor		M-F - time & half first 2 hours, double time thereafter Sat - time & three quarters first 2 hours, double time thereafter Sun - double time	125%	150%	B.4. Administrative & general Grade 1 - \$742.30 Grade 2 - \$767.80 Grade 3 - \$809.10 Clerical supervisor - \$859.80

Awards in clause 4.4 of the Clerks—Private Sector Award 2017 <i>exposure draft</i>	Comparable Classifications	Ordinary Hours	Overtime	Weekend Penalties		Classification Hourly Rate
				Saturday	Sunday	
Clerks - Private Sector Award 2010	Level 1 Level 2 Level 3 Call centre principal customer contact specialist Level 4 Level 5 Call centre technical associate	7.00am - 7.00pm Monday to Friday 7.00am - 12.30pm Saturday	Time & half first 2 hours, double time thereafter	125%	200%	Level 1 Year 1 - \$738.80 Level 2 Year 1 - \$809.10 Level 3 - \$854.60 Call centre specialist - \$860.60 Level 4 - \$897.40 Level 5 - \$933.80 Call centre associate - \$1022.90
State Government Agencies Administration Award 2017*	B.1. Administrative Grade 1 Grade 2 Grade 3 Grade 4 Grade 5 Grade 6 Grade 7 Grade 8	7.00am - 6.30pm Monday to Friday	M-F - time & half first 3 hours, double time thereafter Sat - time & half first 3 hours, double time thereafter Sun - double time	150% (shiftworker)	200% (shiftworker)	B.1. Administrative Grade 1 A - \$728.70 Grade 2 A - \$811.80 Grade 3 A - \$892.60 Grade 4 A - \$968.40 Grade 5 A - \$1039.70 Grade 6 A - \$1114.00 Grade 7 A - \$1209.50 Grade 8 A - \$1340.20
Stevedoring Industry Award 2010*	Grade 1 - Trainee Grade 2 - clerical tasks Grade 3 - clerical/operational skills Grade 4 - clerical functions Grade 5 - clerical functions Grade 6 - clerical functions	7.00am - 5.00pm Monday to Friday	M-F - double time Sat - double time Sun - double time & half	200% (shiftworker)	250% (shiftworker)	Grade 1 - Trainee - \$694.90 Grade 2 - clerical tasks - \$720.30 Grade 3 - clerical/operational skills - \$758.50 Grade 4 - clerical functions - \$803.20 Grade 5 - clerical functions - \$820.00 Grade 6 - clerical functions - \$874.40
Supported Employment Services Award 2017*	Clerical support Grade 1 Grade 2 Grade 3 Grade 4 Grade 5 Grade 6	6.00am - 6.00pm Monday to Sunday	M-F - time & half first 2 hours, double time thereafter Sat until 12noon - time & half first 2 hours, double time thereafter Sat after 12noon - double time Sun - double time	150%	200%	Clerical support Grade 1 - \$694.90 Grade 2 - \$714.90 Grade 3 - \$742.30 Grade 4 - \$767.80 Grade 5 - \$809.10 Grade 6 - \$882.80
Timber Industry Award 2010*	Level 4 - clerical functions	6.30am - 6.00pm Monday to Friday	M-F - time & half first 2 hours, double time thereafter Sat - time & half first 2 hours, double time thereafter Sun - double time	150%	200%	Level 4 - \$767.80
Water Industry Award 2017*	Level 3 - entry level administrative employees Level 4 - administrative employee Level 5 - administrative employee Level 6 - administrative employee	6.00am to 6.00pm Monday to Friday	M-F - time & half first 2 hours, double time thereafter Sat - time & half first 2 hours, double time thereafter Sun - double time			Level 3 - \$797.30 Level 4 - \$809.10 Level 5 - \$859.80 Level 6 - administrative employee
Wool Storage, Sampling and Testing Award 2010*	Wool storage Level 2 - incidental clerical functions Level 3 - clerical functions Wool testing Level 1 - clerical functions	5.00am - 6.30pm Monday to Friday	M-F - time & half first 2 hours, double time thereafter Sat until 12noon - time & half first 2 hours, double time thereafter Sat after 12noon - double time Sun - double time	150%	200%	Wool storage Level 2 - \$739.10 Level 3 - \$749.90 Wool testing Level 1 - \$711.00