

IN THE FAIR WORK COMMISSION

AM2016/31

S 156 - Four Yearly Review of Modern Awards

Health Professionals and Support Services Award 2010 – substantive issues

SUBMISSION OF THE HEALTH SERVICES UNION 7 DECEMBER 2018

1. The Health Services Union (HSU) make these submissions in response to the Decision of the Full Bench of 3 December 2018 ('the Decision'),¹ inviting parties to file written submissions in relation to the proposed wording of the varied clauses in the *Health Professionals and Support Services Award* ('the Award').
2. We provide these submissions in response to the proposed span of hours clause at paragraph [62] of the Decision.
3. The effect of the proposed clause 24.2 will be to radically increase the number of hours that physiotherapist, chiropractic and osteopathic employees can work in the evenings during the week without receiving any penalties.
4. Under the current award, the Monday to Friday span of hours for these employees is 6am to 6pm. Any work performed in excess of these hours is treated at the overtime rate of time and a half for the first two hours, and double time thereafter (clause 28.1, current award). There are no evening penalties under this award.
5. As a result of the proposed new clause 24.2 at [62] of the decision, the Monday to Friday span of hours will be altered to 7:30am to 9pm for physiotherapist, chiropractic and osteopathic employees. This means that these employees working until late in the evenings during the week will receive a significant reduction in wages, as overtime penalties will no longer apply.
6. We submit that if the award is to be varied in accordance with paragraph [62] of the Decision, then this variation should be delayed or phased in over a period of not less than three years, to minimise the detriment to employees affected by this significant change. We submit that such a delayed or transitional approach is consistent with the approach taken by the Full Bench in the Penalty Rates Decisions.²
7. If the Full Bench is minded to adopt a delayed or transitional approach to the implementation of this clause, we will be able to provide draft determinations as required.

Health Services Union

¹ [2018] FWCFB 7350

² [2017] FWCFB 1001; [2017] FWCFB 3001