



BACKGROUND PAPER

Fair Work Act 2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards—*Pharmacy Industry Award 2010*

(AM2019/17)

MELBOURNE, 25 NOVEMBER 2019

Note: This is a background document only and does not purport to be a comprehensive discussion of the issues involved. It has been prepared by the Commission research area and does not represent the view of the Commission on any issue.

[1] A Statement¹ issued on 8 October 2019 noted that the Pharmacy Guild of Australia (PGA) had raised a number of issues regarding the Plain Language Draft Variation Determination (the PL Draft) in submissions dated [15 March 2019](#) and [18 September 2019](#) and referred the matters raised to a conference before the President.

[2] The PGA submission dated [15 March 2019](#) was based on the plain language exposure draft (PLED) published on [15 February 2019](#). A number of points raised in the PGA submission were resolved in the revised PLED published on [2 September 2019](#).

[3] The following points of the PGA submission of 15 March 2019 remain outstanding:

- ‘3(f) Clause 16.1 (Minimum rates) – after undertaking member consultation it was identified that there could be a potential issue when describing or applying the provisional view to the minimum weekly rate table as indicated at [27] of [\[2019\] FWCFB 1255](#).
- 3(i) Clause 18—Allowances – outstanding substantive claim for ‘District Allowance’ that is contained in matter [AM2014/190](#) Transitional provisions, of which a FWCFB decision is pending.
- 3(n) Clause 22.3(b) (Annual leave) – definitions and explanations as outlined in the Commission’s decision at [59–71] of [\[2019\] FWCFB 1255](#) in regards to the payment of loading for annual leave.
- 3(q) Consistency of terminology for rates of pay and allowances used throughout the Award should be addressed as outlined in the Commission’s decision at [59–71] of [\[2019\] FWCFB 1255](#).’

[4] The issue raised at 3(n) of the PGA submission will be dealt separately in accordance with the Commission’s decision at [141] to [153] of [\[2019\] FWCFB 5409](#).

¹ [\[2019\] FWCFB 6899](#)

[5] The PGA submission dated [18 September 2019](#) was based on the revised PLED published on [2 September 2019](#). A number of the points raised in the PGA submission will be included in the next publication of the PLED. The following points remain outstanding:

- '6(a) Clause 10.3 (Part-time employees) – the terminology ‘proportionate basis’ may need to be considered in reference to [\[2019\] FCAFC 138](#) decision.
- 6(c) Clause 18 (Annualised salary (pharmacist and pharmacy assistant level 4 only) – [\[2019\] FWCFB 4368](#) at [27] indicated as a provisional view Model 3 should be included in the PIA – as no objections were filed on the inclusion.

Note: Have draft determinations been issued for the parties’ comment?

- 6(f) Outstanding substantive claim from SDA regarding ‘District Allowance’ [AM2014/190](#) – decision pending.
- 6(l)(ii) Schedule B.1.1 and B.2.1 (Schedule of Hourly Rates of Pay) – Tables description of times is changed to reflect chronology order as defined in other Schedule B tables.
- 6(m) Schedule C—Summary of Monetary Allowances – in accordance with [\[2019\] FWCFB 3949](#) at [12-13], an allowance for the performance of Home Medicine Reviews or Residential Medication Management Reviews is to be included in the PIA.’

Note: The issue relating to the mechanism for adjustment of the allowance is being considered by a separate Full Bench.

[6] At the conference the PGA will be asked to confirm that the above issues are the only remaining outstanding issues and to elaborate on matters raised. Interested parties will be invited to respond to the PGA’s proposals.