



Fair Work Commission: 4 yearly review of modern awards

**SUBMISSIONS: TRANCHE 3 EXPOSURE DRAFTS
AM2019/17**

AUSTRALIAN BUSINESS INDUSTRIAL

- and -

THE NSW BUSINESS CHAMBER LTD

6 MARCH 2020

BACKGROUND

1. In a Decision¹ issued on 2 September 2019 (**Decision**) the Commission provided an updated overview of the status of the award stage of the 4 yearly review of modern awards and a timeline for the finalisation of exposure drafts.
2. This process involves the release and review of updated exposure drafts in three tranches. The third tranche of updated exposure drafts (**Tranche 3**) was released on 29 January 2020. Draft determinations giving effect to the updated exposure drafts were released concurrently.
3. The Commission directed interested parties to file written submissions on the content of the updated Tranche 3 exposure drafts by 4 March 2020².
4. The Commission also directed parties to comment on the provisional view that:

“the variation of the modern awards in Tranche 3 in accordance with the draft variation determinations ... is, in respect of each of these awards, necessary to achieve the modern awards objective”.
5. These submissions are made on behalf of Australian Business Industrial (**ABI**) and the New South Wales Business Chamber Ltd (**NSWBC**). ABI is a registered organisation under the *Fair Work (Registered Organisations) Act 2009*. NSWBC is a recognised State registered association pursuant to Schedule 2 of the *Fair Work (Registered Organisation) Act 2009*.
6. ABI and NSWBC have a material interest in the following Tranche 3 awards:
 - (a) Amusement, Events and Recreation Award;
 - (b) Black Coal Mining Industry Award;
 - (c) Broadcasting, Recorded Entertainment and Cinemas Award;
 - (d) Building and Construction General On-site Award;
 - (e) Business Equipment Award;
 - (f) Educational Services (Teachers) Award;
 - (g) Electrical, Electronic and Communications Contracting Industry Award;
 - (h) Fitness Industry Award;
 - (i) Food, Beverage and Tobacco Manufacturing Award;
 - (j) Funeral Industry Award;
 - (k) General Retail Industry Award;
 - (l) Graphic Arts, Printing and Publishing Award;
 - (m) Health Professionals and Support Services Award;
 - (n) Horticulture Award;
 - (o) Joinery and Building Trades Award;
 - (p) Journalist Published Media Award;

¹ [2019] FWCFB 6077

² [2020] FWCFB 421

- (q) Miscellaneous Award;
- (r) Mobile Crane Hiring Award;
- (s) Nurses Award;
- (t) Plumbing and Fire Sprinklers Award;
- (u) Professional Employees Award;
- (v) Racing Clubs Events Award;
- (w) Registered and Licensed Clubs Award;
- (x) Security Services Award;
- (y) Sugar Industry Award;
- (z) Supported Employment Services Award;
- (aa) Telecommunications Services Award;
- (bb) Textile, Clothing, Footwear and Associated Industries Award;
- (cc) Timber Industry Award; and
- (dd) Wine Industry Award.

AMUSEMENT, EVENTS AND RECREATION AWARD 2010

Overtime for Casuals

7. The application of the casual loading under the Amusement, Events and Recreation Award 2010 (**Amusement Award**) is currently in dispute regarding the calculation of overtime for the casual loading in the proceedings AM2017/51³.
8. Currently under the Amusement Award, the casual loading states as follows:

“10.4 (d) Casual employees will be paid the hourly rates prescribed for the appropriate classification in clause 14-Minimum wages, plus an ordinary time loading of 25%.”
9. ABI and NSWBC are contending in proceedings AM2017/51 that no casual loading is payable on overtime in relation to this Award.
10. Under clause 11.5, the Exposure Draft for the Amusement Award has been changed to state:

“For each hour worked a casual employee will be paid: (a) the ordinary hourly rate for the classification in which they are employed in clause 16-Minimum rates; and (b) a loading of 25% of the ordinary hourly rate” (emphasis added).
11. The Exposure Draft therefore changes the meaning of whether a casual loading is applied on overtime or not.
12. A statement and directions were published by the Vice President with respect to the Amusements Award on 6 December 2019 which invites parties to file submissions concerning the Amusement Award.

³ 2019 FWC 8318 at [12]

14. The Vice President states that:

“[13] The parties are directed to file any evidence and submissions concerning the above awards in accordance with the attached directions. In the event that the matters cannot be determined on the papers and a hearing is required, the hearing will be conducted at 10.00am on 24 February 2020 in Sydney (with video-links on request).”

15. The hearing proposed by Vice President Hatcher was dispensed with and the matter is now being determined on the papers.

16. Until the application of the casual loading to overtime rates in the Amusements Award is determined, ABI and NSWBC submit that either:

- (a) the drafting pertaining to the casual loading should be maintained in its original form (as currently appears in the Amusements Award); or
- (b) the Exposure Draft for the Amusement Award should not be determined and published in its new form.

While the Federal Court has confirmed that a modern award may contain an allowance that applied to a place within a state

BROADCASTING, RECORDED ENTERTAINMENT AND CINEMAS AWARD

Clause 45.3 - Penalty rates not cumulative

17. The drafting of clause 45.3 is somewhat unique. It does not appear to have any meaningful work to do and should be removed.

Clause 62.2 (a) - Zone managers - additional allowances

18. ABI and NSWBC question whether the wording of clause 62.2(a)(ii) offends section 154 of the *Fair Work Act 2009* on the basis that it is expressed to apply to areas within capital cities of *“the States of the Commonwealth”*.

19. While the Federal Court has confirmed that a modern award may contain an allowance that applied to a place within a state or territory, the current wording of the clause may still offend section 154 as it is expressed to apply to the capital cities of all states, not all state *and* territories.

20. Any such issues might be resolved by rewording clause 62.2(a)(ii) as follows:

“Zone 1 applies to cinemas:

A. in the central city areas of:

- *Sydney;*
- *Melbourne;*
- *Brisbane;*
- *Perth;*
- *Adelaide; and*
- *the City of Newcastle; or*

B. any cinemas regularly giving 3 or more performances daily.”

Clause A.1.1(e) - Definitions - Captioner

21. The word “*Deaf*” in clause A.1.1(e) does not need to be capitalised.

Clause A.1.23(d) - Definitions - Captioner/Audio Describer and Subtitlers/Subtitling Editors

22. The sentence beginning with the word “*Duties may include specialised editing*” has been appended to subclause A.1.23(d)(v).

23. This sentence should be separated from the five subclauses (i) to (v) as in clauses A.1.23(a), (c), (e) and (h).

ELECTRICAL, ELECTRONIC AND COMMUNICATIONS CONTRACTING AWARD

Schedule B - Summary of Hourly Rates of Pay

24. ABI and NSWBC submit that there are a number of issues in Schedule B of the updated exposure draft. Specifically, our client submits that the current Schedule B could be articulated more clearly and there are a few errors in relation to method of calculating rates, relevant percentages applied and all-purpose allowances.

25. For ease of reference, the following issues identified are listed in order of appearance in Schedule B:

- (a) the definition for 'ordinary hourly rate' in clause B.1.1 is different to the definition for 'ordinary hourly rate' in clause 2 of the exposure draft;
- (b) Tables B.2.1, B.4.1, B.4.5 and B.4.9 set out 'ordinary and penalty rates' for other than shiftworkers and include a 'public holiday' column. Tables B.2.2, B.4.2, B.4.6 and B.4.10 set out 'overtime rates' for other than shiftworkers and also include the same 'public holiday' column. Replication of the 'public holiday' column may cause confusion for users of the Electrical Award;
- (c) Table B.2.4 provides for 'overtime rates' but also includes a 'public holiday' column. The comment attached to the percentage set out in this column (namely 250%) indicates that it is from clause 20.4 of the exposure draft, however this is the incorrect percentage for all shiftworkers. Public holiday penalties for shiftworkers are contained in clause 13.15 of the exposure draft. The penalty which applies on a public holiday differs depending on whether the employee is a continuous shiftworker or other than a continuous shiftworker. The applicable penalties payable on a public holiday to both categories of shiftworkers are correctly outlined in the last column of Table B.2.3;
- (d) clause B.3.2 of Schedule B for 'casual shiftworkers' includes a 'day' column. This is unnecessary, as the table is for shiftworkers, and rates applicable to day workers are already provided for in Table B.3.1;
- (e) reference to the calculation of apprentice hourly rates for adults and juniors underneath clause B.4 of Schedule B is somewhat confusing. The adult apprentice rates are differentiated based on whether the apprentice commenced their apprenticeship before or, on or after, 1 January 2014. The junior apprentice rates are not expressed in the same manner, despite the fact that clause 16.4(a) of the

Electrical Award specifies different rates for apprentices who commenced their apprenticeship before or, on or after, 1 January 2014. There should be consistency between these clauses; and

- (f) underneath Table B.4.1, footnote 1 indicates that the apprentice hourly rate includes industry allowance, tool allowance and electrician's licence allowance. However, clause 16.4(a)(iii) for junior apprentices, clause 16.4(b)(iii) and clause 16.4(b)(vi) for adult apprentice indicates that apprentices should be paid:
 - (i) the full amount of:
 - A. tool allowance in clause 18.3(g), which is an all-purpose allowance; and
 - B. fares allowance in clause 18.6(d); and
 - (ii) the percentages set out in clause 16.4 for the applicable apprentice of:
 - A. travel time allowance in clause 18.6(c);
 - B. electrician's licence allowance in clause 18.3(b), which is an all-purpose allowance; and
 - C. industry allowance in clause 18.3(a), which is an all-purpose allowance.
26. In the updated exposure draft, the Commission has also asked to consider parties whether the fares allowance in clause 18.6(d) and travel time allowance in clause 18.6(c) should be included in the all-purpose rate for apprentices.
27. In relation to the all-purpose rate for apprentices, our client submits that the fares allowance and travel time allowance should not be included, because:
- (a) neither allowance falls within clause 18.3 all-purpose allowances;
 - (b) clause 18.6(d) clearly states that fares allowance only applies where an employee is required to start and/or cease work on a job site, which may not always be applicable;
 - (c) clause 18.6(c) clearly outlines the circumstances in which the travel time allowance must be paid, namely each day an employee presents to work and when an employee takes an RDO;
 - (d) clause 18.6(g) provides that the allowances in clause 18.6, which encompasses both the fares allowance in clause 18.6(d) and travel time allowance in clause 18.6(c) are not to be taken into account when calculating overtime penalty rates, annual leave, personal/carer's leave, long service leave or public holiday payments; and
 - (e) the wording of the exposure draft does not indicate that clauses 18.6(c) and 18.6(d) should be applied any differently in relation to apprentices, particularly when these clauses are read in conjunction with clause 18.6(g) and clause 16.4(a).
28. To resolve the above issues identified in paragraph 24, our clients submit that:
- (a) the definition for 'ordinary hourly rate' in B.1.1 is amended to reflect the definition provided in clause 2 of the exposure draft; and
 - (b) Tables B.2.1, B.4.1, B.4.5 and B.4.9 are amended so that they only refer to 'ordinary rates' for other than shiftworkers. This requires:

- (i) the words 'and penalty' to be deleted from the heading for B.2.1, B.4.1, B.4.5 and B.4.9; and
 - (ii) the 'public holiday' column be removed from the Tables in B.2.1, B.4.1, B.4.5 and B.4.9.
- (c) Tables B.2.2, B.4.2, B.4.6 and B.4.10 be amended so it is 'overtime and penalty rates' for other than shiftworkers; and
- (d) remove the 'public holiday' column from Table B.2.4 as the percentage provided for in this table is incorrect, and penalty rates for public holidays is already provided for in Table B.2.3; and
- (e) remove the 'day' column from Table B.3.2 as this is unnecessary, as Table B.3.1 already provides for a day workers rates and Table B.3.2 is for casual shiftworkers; and
- (f) remove paragraph 2 and 3 underneath Schedule B.4 Apprentice rates and replace with the following "the apprentice hourly rate for adult apprentices is calculated in accordance with clause 16.4(b)" to ensure consistency with junior apprentices; and
- (g) depending on the Commission's decision in relation to the all-purpose rate for apprentices, this might involve either:
- (i) amending clauses 16.4(a)(iii), 16.4(b)(iii), 16.4(b)(iv), 16.4(b)(vi) and 16.4(b)(vii) so references to fares allowance in clause 18.6(d) and travel time allowance in clause 18.6(c) are removed; or
 - (ii) amending the footnotes for 'apprentice hourly rate' in Schedule B.4 so that it includes "full amount of tool allowance and fares allowance, and the relevant percentage as set out in clause 16.4 of the travel time allowance, electrician's licence allowance and industry allowance"; and
 - (iii) amending the rates in the tables in Schedule B.4 so it includes the fares allowance, and percentage of the travel time allowance.

HORTICULTURE AWARD

Overtime for casuals

29. In proceedings AM2015/17, the AWU and ABI and NSWBC had agreed that the casual loading in the Horticulture Award 2010 (**Horticulture Award**) is payable during overtime on a cumulative basis.
30. This was confirmed in correspondence filed by ABI and NSWBC on 10 October 2019⁴.
31. The Exposure Draft for the Award now provides as follows:

"11.3 Casual loading

- (a) For each hour worked, a casual employee must be paid: (i) the ordinary hourly rate; and (ii) a loading of 25% of the ~~ordinary~~ hourly rate, for the classification in which they are employed."*

⁴ <https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201751-corr-abinswbc-101019.pdf>

32. The exclusion of the word "ordinary" from clause 11.3(a) may infer that the casual loading in the Horticulture Award should be calculated on a compounding basis. This is inconsistent with the position of ABI and NSWBC and the AWU in proceedings AM2017/51.

JOURNALISTS PUBLISHED MEDIA AWARD

Various clauses - Terminology of payments for shiftwork

33. The award variously refers to payments for shiftwork as "*shift penalty rates*" (clauses 10.5, 12.4), "*shift penalties*" (clause 16.2). "*shift penalty payments*" (clause 18.8). "*penalty rates*" (clause 19) and "*shift rates*" (clause 31.1).

ABI and NSWBC suggest that the term "shift penalty rate" should be used throughout the award for the purposes of consistency.

MISCELLANEOUS AWARD

Overtime for casuals

34. As part of the AM2017/51 Overtime for Casuals proceedings, United Voice proposed to vary the overtime clause to introduce overtime provisions for casual employees into the Miscellaneous Award 2010 (**Miscellaneous Award**). The matter was subject to a hearing before the Full Bench on 29, 30 and 31 July 2019.
35. In a Full Bench decision published 8 October 2019, the Full Bench agreed with the United Voice stating the Miscellaneous Award is "confusing and ambiguous" and introduced a provisional view to introduce a new clause into the Miscellaneous Award.
36. The Full Bench stated the following:

"[52] Our provisional view is that clause 22.1 should be varied to provide as follows:

22.1 Overtime

All time worked in excess of:

(a) an average of 38 hours per week, or the daily hours prescribed in clause 20.2, by a full-time employee or casual employee; or

(b) in excess of the agreed number of hours per week pursuant to clause 10.3(b), or the daily hours prescribed in clause 20.2, by a part-time employee;

is overtime and must be paid at the rate of 150% of the relevant minimum wage for the first three hours and 200% of the relevant minimum wage thereafter.

[53] A draft determination to give effect to the variation will be published in due course and interested parties will be given an opportunity to comment upon it."

37. To date, a draft determination has not been published and parties have not been able to comment on the inserting of this clause nor whether overtime provisions should apply to the casual loading.
38. ABI and NSWBC will be submitting in proceedings 2017/51 that a casual loading does not apply to overtime in the Miscellaneous Award.

40. Under clause 11.2 of the Exposure Draft in the Miscellaneous Award states as follows:

"11.2 Casual loading

(a) For each hour worked, a casual employee must be paid:

(i) the minimum hourly rate; and

(ii) a loading of 25% of the minimum hourly rate, for the classification for which they are employed.

(b) The casual loading is instead of the paid leave to which full-time employees are entitled under the NES and this award" (emphasis added).

41. This drafting appears to infer that a casual loading will be payable during overtime, which departs from the existing drafting of the Miscellaneous Award and the position of ABI and NSWBC in proceedings 2017/51.

42. Until the Full Bench has determined proceedings 2017/51, ABI and NSWBC submit that either:

(a) the drafting pertaining to the casual loading should be maintained in its original form (as currently appears in the Miscellaneous Award); or

(b) the Exposure Draft for the Miscellaneous Award should not be determined and published in its new form.

PROFESSIONAL EMPLOYEES AWARD

Clause 2.4 -Definitions

43. Clause 2.4 has been amended to commence with the words "***Academic schedule means***", followed by a list of qualifications.

44. The qualifications form part of the academic schedule, but do not constitute a meaning.

45. The word "*means*" should be replaced with the word "*includes*".

REGISTERED AND LICENSED CLUBS AWARD

Clause 4.1 - Coverage

46. Clause 4.1 states that:

"This industry award covers employers of employees engaged in the performance of all or any work in or in connection with or for clubs registered or recognised under State, Territory or Commonwealth legislation and their employees in the classifications within Schedule A— Classification Definitions, to the exclusion of any other modern award."

47. Clause 4.2 goes on to define "*club*" as:

"any club which is registered and licensed under the provisions of relevant State or Commonwealth Statutes (Liquor and/or Gaming Acts, Associations' Incorporation Acts or Corporations Acts) and which is established and operates on a not-for-profit basis for the benefit of members and the community."

48. The words "*registered or recognised under State, Territory or Commonwealth legislation*" in clause 4.1 are superfluous given the requirement under clause 4.2 for a club to be

“registered and licensed under the provisions of relevant State or Commonwealth Statutes (Liquor and/or Gaming Acts, Associations’ Incorporation Acts or Corporations Acts)”.

Clauses 4.6 and 4.7 - Coverage (On-hire and Group Training)

49. Clause 4.6 states that the “award covers any employer which supplies labour on an on-hire basis in the clubs industry” (emphasis added).
50. Similarly, clause 4.7 states that the “award covers employers which provide group training services for apprentices and/or trainees engaged in the clubs industry” (emphasis added).
51. The term “clubs industry” is not a defined term in the award.
52. A relevant definition could be inserted by amending clause 4 as follows:

“4.1 This industry award covers employers throughout Australia who are engaged in the clubs industry in respect of work by their employees in a classification in this award and their employees engaged in the classifications within Schedule A— Classification Definitions, to the exclusion of any other modern award.

4.2 Definition of clubs industry

*For the purposes of clause 4 **club industry** means the performance of all or any work in or in connection with or for clubs.*

*4.3 **club** means any club which is registered and licensed under the provisions of relevant State or Commonwealth Statutes (Liquor and/or Gaming Acts, Associations’ Incorporation Acts or Corporations Acts) and which is established and operates on a not-for-profit basis for the benefit of members and the community.*

4.4 This award covers ...”

Clause 11.2 - Causal Loading

53. Clause 11.2 refers to “the ordinary hourly rate prescribed in clause 0”.
54. This should be a reference to clause 24.1.

Clause 11.3 - Casual Loading

55. Parties are asked whether a maintenance and horticultural employee may be engaged on a casual basis; and if so, do the percentages in clause 0 [24.1] or 24.2 apply.
56. Nothing in clause 11.1 excludes maintenance and horticultural employees from the definition of a casual employee.
57. Maintenance and horticultural employees are clearly excluded from the rates in clause 24.1.
58. In Submissions filed on 18 January 2017⁵, ABI and NSWBC submitted that maintenance and horticultural employees may be engaged on a casual basis and that the rates in clause 24.2 would apply save for the fact that Monday to Friday and Saturday before noon would be paid at 125%.

⁵ ABI/NSWBC Submissions dated 18 January 2017

<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014-256andors-sub-abinswbc-180117.pdf>

59. We do not oppose the addition of a casual employee row to the table in clause 24.2 as suggested by the AWU at paragraph 3.3 of their Submissions of 20 January 2017⁶.

Clause 15.8 - Deferral of rostered days off

60. Parties are asked whether clause 15.8(g) is still required.
61. This clause contains a transitional provision that ceased to have effect on 1 January 2013.
62. Consistent with their Submissions filed on 18 January 2017⁷, ABI and NSWBC submit that clause 15.8(g) is no longer required and should be removed.

SECURITY SERVICES INDUSTRY AWARD

Overtime for casuals

63. As part of the AM2017/51 Overtime for Casuals proceedings, United Voice proposed to vary the overtime clause to introduce overtime provisions for casual employees into the Security Services Industry Award 2010 (**Security Award**). The matter was subject to a hearing before the Full Bench on 29, 30 and 31 July 2019.
64. In the decision⁸, the Full Bench stated as follows:

"[63] It is not in dispute that casual employees are not currently entitled to receive the casual loading when being paid overtime penalty rates, and the above variation is not intended to disturb that position."

65. Therefore, the casual loading is not payable during overtime.
66. However, the Exposure Draft for the Security Award states as follows:

"11.2 Casual loading

(a) An employer must pay a casual employee for each hour worked a loading of 25% in addition to the minimum hourly rate otherwise applicable under Table 4-Minimum rates.

(b) The casual loading is paid in addition to any penalty rate" (emphasis added).

67. This wording appears inconsistent with the determination of the Fair Work Commission in decision [2019] FWCFB 6953 and should be amended.

⁶ AWU Submissions dated 20 January 2017

<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014283-sub-awu-200117.pdf>

⁷ ABI/NSWBC Submissions dated 18 January 2017

<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am2014-256andors-sub-abinswbc-180117.pdf>

⁸ [2019] FWCFB 6953

TEXTILE, CLOTHING, FOOTWEAR AND ASSOCIATED INDUSTRIES AWARD

Overtime for casuals

68. The Textile, Clothing, Footwear and Associated Industries Award 2010 (**Clothing Award**) is currently the subject of dispute regarding the calculation of overtime for the casual loading in the proceedings AM2017/51.
69. The Commission invited parties to file submissions on 14 October 2019. Submissions were filed by ABI and NSWBC on 12 November 2019⁹ stating that the calculation of overtime for casual employees is on a cumulative basis. The Construction, Forestry, Maritime, Mining & Energy Union - Manufacturing Division submits on 9 December 2019¹⁰ that it is to be calculated on a compounding basis.
70. The matter has been reserved by the Full Bench and has not been decided.
71. However, the Exposure Draft for the Clothing Award states as follows:
- "11.9 Casual loading For each hour worked, a casual employee must be paid: (a) the ordinary hourly rate; and (b) a loading of 25% of the ~~ordinary~~ hourly rate, prescribed for the relevant classification in which they are employed."*
72. The exclusion of the word "ordinary" from 11.9(a) may infer that the casual loading in the Clothing Award should be calculated on a compounding basis. This is inconsistent with the position of ABI and NSWBC in proceedings AM2017/51.
73. Until the Full Bench has determined proceedings 2017/51, ABI and NSWBC submit that either:
- (a) the drafting pertaining to the casual loading should be maintained in its original form (as currently appears in the Clothing Award); or
 - (b) the Exposure Draft for the Clothing Award should not be determined and published in its new form.

Clause 18.4 (f) - Breaks, rests and meal allowance during overtime

74. The words "five and a half" have been replaced with "5 1/2".
75. This appears to be an error. The "1/2" should be replaced with the "½" symbol, as it has in other exposure drafts.

TIMBER INDUSTRY AWARD

Clause D.3

76. Parties are asked whether the public holiday penalty rate for casual workers should be limited to the General Timber Stream.

⁹ ABI/NSWBC submissions dated 12 November 2019

<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201751-sub-abinswbc-121119.pdf>

¹⁰ CFMMEU-MD submissions dated 9 December 2019

<https://www.fwc.gov.au/documents/sites/awardsmodernfouryr/am201751-sub-reply-cfmmeu-091219.pdf>

77. ABI and NSWBC submit that, based on the current wording of the exposure draft, casual employees are not entitled to public holiday loadings, unless they are in the General Timber Stream.
78. This is because, clause 27.1(d) prescribes the public holiday penalty for casual employees. This clause is clearly limited to employees in the General Timber Stream.
79. Clause 27.1(c) also prescribes a public holiday penalty, but it expressly limited to weekly employees and so does not apply to casual employees, whether in the General Timber Stream or not.
80. Further to this, the Saturday and Sunday payments prescribed in clauses 27.1(a) and (b), are also expressly limited to weekly employees and do not apply to casual employees.
81. The Saturday and Sunday rates in the table at clause D.3.1 should be amended to reflect this.

THE 'CONSTRUCTION AWARDS'

82. In accordance with the Statement released by the Full Bench on 2 March 2020 our clients have not reviewed the exposure drafts published on 29 January 2020 for the:
 - (a) Building and Construction (General) On-Site Award;
 - (b) Joinery and Building Trades Award,
 - (c) Mobile Crane Hiring Award; or
 - (d) Plumbing and Fire Sprinklers Award.
83. ABI and NSW intend to review the updated exposure drafts due to be published by the Commission awards after the Construction Full Bench in AM2016/23 has issued final variation determinations.

OTHER EXPOSURE DRAFTS

84. Our clients have reviewed each of the remaining updated exposure drafts in which they have an interest and have no comments to make in relation to any of the amendments.
85. It appears to ABI and NSWBC that the amendments made to the exposure drafts have been made to either:
 - (a) implement a decision of the Fair Work Commission (determined on the basis that it was required to meet the modern awards objective); or
 - (b) correct a minor technical or drafting error.
86. Accordingly, our clients agree with the Commission's provisional view that the variation of the modern awards (set out in paragraph 6 above) in accordance with the draft variation determinations is necessary to achieve the modern awards objective.

Filed on behalf of Australian Business Industrial and the NSW Business Chamber Ltd

6 March 2020