

IN THE FAIR WORK COMMISSION

Matter No: AM2014/283

Section 156 – Four Yearly Review of Modern Awards – Registered and Licensed Clubs Award 2010

SUBMISSION IN REPLY

UNITED VOICE

1. This submission is made pursuant to the direction of the President, Justice Ross, on 26 August 2016. This submission is made in reply to a number of submissions concerning technical and drafting matters in the exposure draft of the *Registered and Licensed Clubs Award 2010* ('the Award').
2. All references in this submission are to the exposure draft, unless otherwise specified.

Clause 4 - Coverage

3. In its submission of 18 January 2017, Business SA submits that the subclauses of clause 4 should be reordered so that clauses 4.5 and 4.6 would be clauses 4.3 and 4.4. United Voice opposes this proposition; the structure of clause 4 is consistent with that of most other modern awards.

Clause 11.3 – Casual employees

4. Business SA submits that the Award is silent on the issue of casual employment for maintenance and horticultural staff. This is incorrect. When the Award is read as whole, it appears that maintenance and horticultural staff may be employed casually. The correct rates for casual maintenance and horticultural employees can be found at clause 24.
5. However, the Award is less clear than it should be. The Award should be varied so it is clear that a casual maintenance and horticultural employee is paid a casual rate of 125 per cent between Monday and Saturday before 12 noon.

Clause 24.4 – Late and early work penalty

6. Business SA submits that the penalties for late and early work are paid *pro rata*. Further, Business SA submits that the current award provides a 10 per cent loading rather than a flat dollar amount per hour. Neither submission is correct.

7. The Award (in both its current form and the exposure draft) provides for a flat dollar amount penalty for late and early work. The allowance is a dollar amount, described as a certain percentage of the standard rate.
8. The late and early work penalties are not paid *pro rata* when the employee works for less than one hour. In fact, the allowance is paid for the actual time worked, rounded up to the nearest hour. This is the only possible interpretation of the words of the current Award, which provides that the allowances are paid '***per hour or any part of an hour*** (emphasis added) *for such time worked*' within the penalty period. Since the allowance is a flat amount, rather than a percentage loading, these words do not allow the allowance to be calculated on a *pro rata* basis.

**UNITED VOICE
22 FEBRUARY 2017**