

Australian Industry Group

# 4 YEARLY REVIEW OF MODERN AWARDS

## **Submission**

Family and Domestic Violence Clause  
(AM2015/1)

**28 July 2017**

## 4 YEARLY REVIEW OF MODERN AWARDS

### AM2015/1 - FAMILY AND DOMESTIC VIOLENCE CLAUSE

1. This submission of the Australian Industry Group (Ai Group) responds to the Statement issued by the Full Bench on 24 July 2017<sup>1</sup> in AM2015/1 and AM2015/2.
2. Ai Group has no objection to the draft directions included as Attachment B to the Commission's Statement.
3. In addition, Ai Group proposes that the following list of issues be addressed in the submissions in respect of the Majority's preliminary view:
  1. Should there be an entitlement to unpaid family and domestic violence leave?
  2. If Yes:
    - a. What should be the extent of the entitlement to unpaid family and domestic violence leave (i.e. how many days)?
    - b. In what circumstances should any entitlement to unpaid family and domestic violence leave arise (i.e. how should "family and domestic violence" be defined and for what purposes should unpaid leave be able to be taken)?
    - c. What continuity of service issues should be taken into account?
    - d. What notice requirements should apply?
    - e. What evidence requirements should apply?
    - f. What entitlements should apply to part-time employees?

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<sup>1</sup> [2017] FWC 3865

3. Does the *Fair Work Act 2009* permit an award clause to allow an employee to take their NES entitlement to personal/carer's leave for family and domestic violence purposes, other than in the circumstances set out in the NES (i.e. if an employee is ill or injured or is caring for a family or household member who is ill or injured)?
4. Should an employee be able to access their NES entitlement to personal/carer's leave for the purposes of taking family and domestic violence leave?
5. If Yes:
  - a. Should there be a cap on the amount of personal/carer's leave that can be taken for family and domestic violence leave purposes?
  - b. Should an employee be required to use their personal/carer's leave before taking unpaid family and domestic violence leave?
  - c. In what circumstances should an employee be able to access their NES entitlement to personal/carer's leave for the purposes of taking family and domestic violence leave (i.e. how should "family and domestic violence" be defined and for what purposes should personal/carer's leave be able to be taken)?
  - d. What continuity of service issues should be taken into account?
  - e. What notice requirements should apply?
  - f. What evidence requirements should apply?
  - g. What entitlements should apply to part-time employees?