

13 July 2017

Associate to Justice Ross
President, Fair Work Commission

Via Email Chambers.Ross.j@fwc.gov.au

Dear Associate

**Re: Pharmacy Industry Award Plain Language – ‘on hire’
[2017] FWCFB 3337 and [2017] FWCFB 3570**

We refer to the Commission’s statement **[2017] FWCFB 3570** of 5 July 2017 and decision **[2017] FWCFB 3337** of 21 June 2017.

At paragraph [4] of the statement, and [10] of the decision, the Commission directed parties to file further written submissions concerning whether clause 4.3(a) of the January exposure draft should be adopted having regard to the Commission’s provisional views expressed in paragraph [9] of the decision as follows:

“The focus should therefore be upon whether clause 4.3(a) of the January exposure draft is appropriate. In respect of clause 4.3(a), our provisional conclusion is that on no view does it bring a pharmacy business within the coverage of the Pharmacy Award merely by virtue of the fact that it is supplied with on-hire labour by an on-hire employer. Nor do we consider that there would be any proper basis for a modern award to be expressed to cover a business which did not actually employ anybody covered by that modern award.”

Business SA submits that clause 4.3(a) of the January exposure draft should be adopted having regard to the Commission’s provisional views expressed above.

Further, the Commission states at paragraph [10]

“Additionally, any interested party may lodge a submission by the same date responding to the contention advanced by Business SA that clause 4.3(b) changes the effect of the current clause 4.6.”

Business SA submits, to add clarity to this issue, that our objection is to the change of the words used to refer to the company hosting the trainee from “hosted by a company to perform work” in clause 4.6 of the current award to “hosted by an employer covered by this award” in clause 4.3(b). We submit the host is not required to be an employer and may not be an employer.

Should you require any further information or have questions, please contact Karen van Gorp, Senior Policy Adviser, on (08) 8300 0040 or karenv@business-sa.com or Chris Klepper, Policy Adviser, on 03 83000062 chrisk@business-sa.com.

Yours sincerely

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