

## **In the Fair Work Commission**

### **AM2017/60 – Four Yearly Review of Modern Awards – General Retail Industry Award 2020 – Substantive Issues**

1. Pursuant to directions issued by Justice Ross in the running of the hearing of the above matter on Wednesday, 18 November 2020, the employer parties were directed to file any note responsive to question 8 of the Information Note issued by the Fair Work Commission earlier that day by 4.00 pm on Thursday, 19 November 2020 with any response by the SDA to be filed by 12.00pm the following day.
2. Question 8 posed by the Fair Work Commission invited opposing parties to indicate whether they raised objection to or otherwise disputed any aspect of the SDA's filed analysis of modern awards and the extent to which any of them fell into categories there identified by the SDA in terms of how those Awards dealt (if they did) with junior rates.
3. ABI and NSWBC have filed a supplementary commentary in response to the directions of the Commission.
4. The SDA offers the following brief comments in reply.
5. ABI or NSWBC do not cavil with the numerical accuracy of the SDA's submission. The SDA notes the concession. The relevance of the SDA's submission, contested as to part by ABI and NSWBC, is for the Commission to assess.
6. ABI and NSWBC refer to and rely upon the observation of his Honour the President as to the relevant inconsistency of practice across the Award system to the manner in which junior rates are applied without at the same time acknowledging his Honour's characterisation of the submission made by the SDA that, in respect of Awards providing for junior rates, it is only a minority of Awards that don't seek to impose some limitations on their application up the classification structure.
7. ABI and NSWBC do not appear in terms to dispute this articulation by his Honour the President of the SDA's submission although they submit that the GRIA does in fact have limitations in terms of the application of Junior Rates inasmuch as it provides that they do not apply to 20 year olds. With respect, this observation is necessarily premised upon prior acceptance of the proposition that a 20 year old is relevantly to be considered a junior employee.
8. As to the further submissions and supposition (without supporting evidence) in relation to Awards other than the GRIA not identified as having any limitation, the SDA considers that is useful to here repeat and re-emphasise the evidence of Dr O'Brien led on behalf of the SDA that the present variation, if granted, might conceivably impact the present working terms of approximately 11,000 employees covered by the GRIA.
9. The SDA otherwise refers to and repeats its submissions as filed and as made orally.

**Dated:** 20 November 2020

**A J MACKEN & CO.**