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Sent: Wednesday, 18 November 2020 12:25 PM

To: Chambers - Ross J <Chambers.Ross.j@fwc.gov.au>

Cc: Sophie Ismail <sismail@actu.org.au>; Michael Rizzo <mrizzo@asu.asn.au>; Tamsin Lawrence <Tamsin.Lawrence@australianchamber.com.au>; Luis Izzo <luis.izzo@ablawyers.com.au>; Ruchi Bhatt <Ruchi.Bhatt@aigroup.com.au>

Subject: Application to vary the Clerks - Private Sector Award 2020 - suggested changes to the survey

Dear Associate,

I write in relation to the proceedings associated with proposed changes to the Clerks – Private Sector Award 2020 and the related survey of employers (AM2020/98).

Please find attached a further version of the survey that incorporates proposed amendments that are a product of discussions between Ai Group and ACCI.

The changes largely constitute suggested alterations to the previous questions rather than new proposals to ask questions about different issues. The employer parties have endeavoured to include brief comments explaining the reasons for the changes and intend to speak to the document during the conference at 2pm.

Regards

Brent Ferguson

National Manager – Workplace Relations Advocacy & Policy

The Clerks Award & working from home during COVID-19

The Fair Work Commission wants to understand how businesses with employees covered by the Clerks Award have adapted to working from home during the COVID-19 pandemic.

Complete this survey if:

- You are an employer
- You have employees covered by the Clerks – Private Sector Award 2020 (the Clerks Award).

Please **do not** complete this survey if you have an **Enterprise Agreement** in place which covers all of your employees who would otherwise be covered by the Clerks Award.

You should only complete the survey **once**, regardless of how many times you have received an invitation to complete the survey.

What will the survey ask?

We will ask you about **your business and your employees**. The survey includes questions about where your business is, how many employees you have and how many employees are covered by the Clerks Award.

We will also ask you about any **working from home arrangements** accessed by your employees. The survey includes questions about any changes to how your employees are working their hours while they're at home. It also includes questions about what extra help, if any, you've provided. The final part of the survey includes questions about your plans for working from home arrangements in the future.

How do I know if my employees are covered by the Clerks Award?

The [Clerks Award](#) covers employees who mainly carry out clerical and administrative work in the private sector.

This includes:

- filing and photocopying
- typing and word processing
- managing accounts, invoices and orders
- billing clients and customers
- maintaining records and journals, including payroll
- answering calls
- cash handling
- operating a telephone switchboard
- attending a reception desk
- secretarial and executive support services.

Examples of employees covered by the Clerks Award include:

- an administrative assistant
- a receptionist in an accounting firm
- a bookkeeper in a manufacturing company
- a clerical employee in a retail head office

If you're still not sure, you can check with the [Fair Work Ombudsman](#).

What will we do with your responses?

The Commission will use your responses to understand how [businesses with employees covered by the Clerks Award have adapted to working from home during the COVID-19 pandemic](#)~~the flexibility provisions in the Clerks Award are being used by employees and employers during the COVID-19 pandemic.~~

Survey responses will remain confidential. We will not be able to identify you by your responses. If you have any questions or concerns about your privacy or how the data will be used, please contact [X](#)

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Commented [BF1]: This better aligns with the covering email and purpose of the survey.

Your business and employees

1. Does your business have any employees covered by the Clerks Award?

- Yes
- No — End survey. Thank you for participating.

2. Does your business have an enterprise agreement?

- Yes — Go to question 2.1
- No — Go to question 3

2.1. Does your enterprise agreement cover any employees who would otherwise be covered by the Clerks Award?

- Yes, all of them — End survey. Thank you for participating.
- Yes, some of them — Go to question 3
- No — Go to question 3

Note: Questions 3 to 6 ask you to identify the number of employees employed by your business, covered by the Clerks Award and who have been working from home since 1 July 2020. If you can, please provide the exact number of employees in response to each question, but if you cannot provide an exact number, please estimate the number of employees to the best of your knowledge.

3. How many employees does your business currently employ?

Commented [FWC2]: Ai Group and ACCI propose that this question should ask for an approximate number of employees. The note above deals with circumstances in which the person completing the survey is unable to provide an exact number of employees.

4. How many of your employees are covered by the Clerks Award (Don't count any employees covered by an enterprise agreement)?

COVID-19 response

Note: The following questions relate to your employees who are covered by the Clerks Award. Do not include employees covered by an enterprise agreement.

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Commented [BF3]: This is intended to exclude EA covered employees from the answers.

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5. How many of your Clerks Award employees have been working from home since 1 July 2020? (You should include all employees working from home during this period, not just employees who started working from home after 1 July 2020).

Commented [FWC4]: Ai Group and ACCI propose that this question should ask for an approximate number of employees. The note above deals with circumstances in which the person completing the survey is unable to provide an exact number of employees.

6 How many of these employees are:

| Gender | Number of employees |
|--|---------------------|
| Female | |
| Male | |
| Other (Individuals who identify as non-binary, gender diverse, or with descriptors other than female or male.) | |

Commented [FWC5]: The ASU submit the question in relation to gender should be retained.

The ASU also submit that a separate question asking whether employees are full-time, part-time or casual should be included. This question has not been included in the survey as it is not relevant.

7. Please indicate whether any of your employees covered by the Clerks Award employees, who have been working from home since 1 July 2020, have changed their hours of work in any of the following ways during this period? Tick all that apply

- Starting earlier than usual
- Finishing later than usual
- Breaking up their working day
- Working longer periods on some days and shorter periods on other days
- Don't know

Commented [FWC6]: The ASU suggested amendments to this question which have not been incorporated so that the full range of answers are retained.

Commented [BF7]: We are concerned about an arguable lack of clarity in the wording of question 7 and a risk that it could capture changes to hours that are not relevant to the matters in issue. The change is intended to deliver a more focused response.

7. Of the employees covered by the Clerks award Award who have been working from home since 1 July 2020, have any of them changed their patterns of work?

- Yes — Go to question 8
- No — Go to question 12

Commented [RB8]: Suggested addition. The person completing the survey might not know.

Commented [FWC9]: The ASU suggest asking an additional question as follows:

How many of your employees that are covered by the Clerks Award and who have been working from since 1st July 2020 have changed their total overall hours?

8. How many Clerks Award employees have changed their pattern hours of work in the period since 1 July 2020?

- All
- Most
- Some
- None
- Don't know

Commented [FWC10]: The order of questions 7 to 11 has been changed so that they flow more logically. Some of the repetition has been taken out of the questions to simplify the wording.

Commented [BF11]: Suggest that the wording should link the answer to the preceding question in some way. A note may be the most appropriate way of achieving this.

9. Who requested the changes in patterns hours of work?

- The employer
- The employees
- Both the employer and employees have requested changes

Commented [FWC12]: The ASU suggested that an additional question about who initiated the change in working

pattern. The Commission has drafted this question to address the ASU's submission.

Don't know / can't say

10. What changes have been made to the patterns of work? Tick all that apply

Starting earlier than usual

Finishing later than usual

Breaking up working day

Working longer periods on some days and shorter periods on other days

Don't know

Other, please provide details:

11. Thinking about the ~~employees covered by the~~ Clerks Award employees who have changed their ~~patterns~~ hours of work, why are they different working arrangements in place? Tick all that apply.

Because of the employee's family/caring commitments

Because the employee wishes to attend to personal matters during their usual working hours other than family / caring or study commitments commitments

To accommodate an employee's secondary employment

To accommodate an employee's study commitments

Because the employer has asked the employee to work these different hours

Because of the requirements of the work (eg. client availability, manager availability, colleague availability or other work factors)

Not sure / cannot say

Other

12. Where ~~employees covered by the~~ Clerks Award employees do work from home, who determines when breaks from work are taken?

The employee chooses when they have a break

The employer directs the times that breaks may be taken

Both

13. Have any additional payments or support been provided by the business to ~~employees covered by the~~ Clerks Award employees who have been working from home since COVID-19 restrictions commenced (i.e. since March 2020)? If yes, please tick all that apply and provide further details below:

Existing laptop, computer or other equipment has been transferred from the employee's usual place of work to the home (temporarily or permanently)

New laptop, computer or other equipment

Commented [RB13]: Suggested addition. The person completing the survey might not know. Also accounts for the possibility that there was no clear request one way or another – it just happened because of the circumstances.

Commented [FWC14]: The ASU suggested amendments to this question which have not been incorporated so that the full range of answers are retained.

Commented [RB15]: Suggested addition. The person completing the survey might not know.

Commented [FWC16]: Ai Group and ACCI suggest some changes to the wording of this question so that it refers to 'different working hours'. This change has not been made in order to keep the language in the series of questions about 'patterns of work' consistent.

Commented [RB17]: Suggested addition to minimise overlap with other options

Commented [FWC18]: Ai Group and ACCI have suggested this additional option

Commented [FWC19]: The ASU suggest removing the options of 'both' and 'other'. Other has been removed but both has been retained.

Commented [FWC20]: The ASU suggest an addition question should be asked about whether the employer conducted a risk/ergonomic assessment of the employee workplace as required by the OHS Acts and Regulations. This has not been included for the reasons discussed at the conference on 27 October 2020.

- Allowance or reimbursement for purchasing office equipment
- Allowance or reimbursement to cover home internet and electricity costs
- Mental health support
- Additional training
- Provision of a telephone or payment of a telephone allowance or reimbursement
- Other, please provide details:

Commented [FWC21]: This option was previously 'telephone'. Additional words proposed by ACCI and Ai Group.

14. Does your business have a policy about working from home?

- Yes
- No

If yes please provide a copy of the policy to the Commission, by email to X. The policy document will only be used by the Commission for analysis about the types of things covered in a working from home policy, it will be de-identified in any published reports and the name of your business will not be disclosed.

Commented [FWC22]: The ASU suggest an additional question as follows:

Has your working from home policy been circulated to your employees?
Yes
No

The question has not been included for reasons similar to the question in relation to the proposed OHS question.

15. In which state or territory is your business located (tick all that apply)?

- Australian Capital Territory
- New South Wales
- Northern Territory
- Queensland
- South Australia
- Tasmania
- Victoria
- Western Australia

Commented [FWC23]: Ai Group and ACCI suggested alternative wording as follows:

If yes – You are requested to please provide a copy of the policy to the Fair Work Commission by emailing it to X if possible. A copy of any policy emailed to the Fair Work Commission will not be made available to any party other than the Fair Work Commission.

Flexible working arrangements

The standard spread of ordinary hours (for employees other than shiftworkers) under the Clerks Award is between:

- 7.00 am and 7.00 pm on Monday to Friday; and
- 7.00 am and 12.30 pm on Saturday.

Normally, an employee (other than a shiftworker) who works outside of this spread of hours would be entitled to paid overtime.

The Clerks Award Flexibility Schedule extends the spread of ordinary hours of work. It allows an employee who is working from home to request a change in the spread of ordinary hours of work so that ordinary hours can be worked between:

Commented [FWC24]: Ai Group and ACCI proposed the words '(for employees other than shiftworkers)'. This is consistent with Schedule I.

- 6.00 am and 10.00 pm, Monday to Friday; and
- 7.00 am and 12.30 pm on Saturday.

Note 1: Questions 16 to 18 ask you to identify the number of employees working from home and their patterns of working hours, if you can, please provide an exact number of employees in response to each question; but if you cannot provide an exact number, please estimate the number of employees to the best of your knowledge.

Note 2: The following questions relate to your employees who are covered by the Clerks Award only. Do not include employees covered by an enterprise agreement.

16. Of your Clerks Award employees (other than shiftworkers) who ~~are covered by the Clerks Award and~~ have been working from home since 1 July 2020, how many have changed their working ~~patterns-hours~~ so that they have either regularly or from time to time undertaken work between ~~7pm~~ 6am and ~~10pm-7am~~ 7am on weekdays during this period?

17. Of your employees ~~who are covered by the Clerks Award~~ employees who and have been working from home since 1 July 2020, how many have changed their working ~~patterns-hours~~ so that they have either regularly or from time to time undertaken work between 7pm and 10pm on weekdays during this period?

18. And of those who have changed their work ~~patterns-hours~~ so as to undertake work between 7pm and 10pm, how many have changed their working ~~patterns-hours~~ so that they have either regularly or from time to time worked any of their hours between the following times:

a. 9pm and 10pm:

b. 8pm and 9 pm:

c. 7pm and 8 pm:

d. Another time (please specify)

Future working from home arrangements

19. In the future, assuming you were not required by any public health order or other legal obligation to permit an employee to work from home, do you intend to allow your employees covered by the Clerks Award to work from home at least some of the time?

- [] Yes
- [] No

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Commented [RB25]: Added for the same reasons as above

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Commented [FWC26]: Ai Group’s proposed wording change has been accepted here, however, the survey will ask for an exact number (where possible) instead of the ‘all, most, some, none’ options proposed by the employer groups.

Commented [BF27]: Change to ensure the morning hours are captured

Commented [FWC28]: The ASU support the retention of the word ‘regularly’ in this question.

Commented [FWC29]: Ai Group’s proposed wording change to add “from time to time” has been accepted here, however, the survey will ask for an exact number (where possible) instead of the ‘all, most, some, none’ options proposed by the employer groups.

Commented [FWC30]: Ai Group and ACCI have suggested the words “or from time to time” and they have been incorporated here.

Commented [FWC31]: The ASU support the inclusion of these questions that were proposed by ACCI

Commented [FWC32]: Some minor changes have been made to the wording proposed by Ai Group and ACCI.

20. Are there any impediments for to your business with allowing employees covered by the Clerks Award employees to work from home? If yes, please tick all that apply and provide further details below:

- Work cannot be completed from home
- Reductions in the quality of the employee's work performance
- Work cannot be supervised to the same extent as in the workplace
- Loss of productivity
- Security/privacy concerns (including IT)
- WHS concerns
- Costs of facilitating the arrangement
- Other, please provide details:

21. If you were to permit some of your employees covered by the Clerks Award employees to generally or sometimes work from home, are there circumstances when you may still require some or all of these employees to undertake some work at your workplace?

- Yes
- Potentially
- No

If the employer answers "yes" or "potentially" move to question 22

22. Why would you potentially require employees to undertake some work at the workplace? Select all that apply.

- because some work activities cannot be performed remotely
- to participate in team meetings/gatherings
- to ensure adequate supervision of the employee
- to maintain regular contact with the workplace, supervisor, peers or clients
- because of concerns about the quality of work performed remotely
- Other, please provide details:

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Commented [BF33]: The change clarifies that the focus is on impediments to permitting WFH arrangements rather than impediments to the business

Commented [FWC34]: Some minor changes have been made to the wording proposed by Ai Group and ACCI.

Commented [RB35]: There could be more than one reason.