



SUBMISSION ON BEHALF OF THE AUSTRALIAN FEDERATION OF
EMPLOYERS AND INDUSTRIES (AFEI)

AM2008/80

AWARD MODERNISATION

AFEI
Australian Federation of
Employers & Industries

**BEFORE THE AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION
AWARD MODERNISATION**

**AM 2008/80 – HEALTH & WELFARE SERVICES (REMAINDER) –
SUPPORTED EMPLOYMENT SERVICES**

1. The Australian Federation of Employers and Industries (AFEI) make the following submissions concerning the Health and Welfare Services (remainder) – Supported Employment Services Industry, which is included in Stage 4 of Award Modernisation.
2. AFEI acknowledge the efforts of the Commission to facilitate pre Stage 4 consultation between the parties regarding Supported Employment Services. As a result of this consultation there appeared to be some consensus regarding the parties view that a Modern Award recognising the needs of disabled employees and organisations which provide services to them should be created.
3. Whilst acknowledging the significant industry support from the parties at the consultation for the establishment of such an instrument, AFEI is opposed to the intended scope and coverage of the draft developed by the LHMU.
4. The scope of the LHMU draft indicates that the award is intended to apply to all employers in Australia in Supported Employment Services and their employees as listed in Schedule A. The concern of AFEI is that the classifications contained in this draft extend beyond the traditional scope of the current federal LHMU Supported Employment Services Award 2005.

5. The draft provides for detailed grades and classifications to apply to employees, both supported and otherwise, and in addition makes provision at clause 26, for employees engaged in education and training functions as Assistant Supervisors, Supervisors, Senior Supervisors and Employment Officers.
6. AFEI submits that whilst the coverage provisions expressly exclude employees in executive and management positions which are not covered by the classification structure contained in the draft award, the classification structure proposed has been expanded beyond current instruments, with the insertion of employment officers and additional, more senior grade (grade 8). This expansion raises the concern that previously award free employees may now be a risk of being bound by a Modern Award.
7. Significantly, the current federal LHMU Supported Employment Services Award 2005 applies to a limited number of organisations by named respondent, thus the majority of supported employment services are not bound by its provisions. Organisations who are not named respondents often operate under common rule state based industrial instruments applying to the Social and Community Services sector.
8. Such instruments have been developed to incorporate highly flexible conditions reflecting the need for services to operate outside of 'standard business hours' and the unpredictable nature of client demand. Thus any Modern Award developed to apply to this sector must be created with terms and conditions that recognise that most services are not currently covered by the federal award. Consequently their current award provisions and their need for a high degree of operational flexibility must be retained.

9. AFEI is concerned by the reductions in flexibility of conditions that the draft LHMU award contains with respect to the span of ordinary hours, the application of overtime penalty rates and the omission of shift work provisions.
10. In addition, AFEI wishes to draw the Commission's attention to the multi-faceted nature of many organisations providing services to disabled clients. A significant number of organisations who are not named respondents to the LHMU Supported Employment Services Award 2005 provide care or residential services in conjunction with employment assistance. A concern for these organisations is how to delineate between their services and employees with respect to award coverage in circumstances where there is significant cross over between duties.
11. For example some disability services provide 'group home' or residential facilities in addition to work opportunities in a sheltered workshop environment. A difficulty for these organisations will be the award coverage of employees that fluctuate between the differing services provided by the employer.
12. AFEI recognise that this is not a simple issue to be easily resolved, and that the Commission may need to consider creating a Disability Services Industry Modern Award with separate provisions pertaining to the diverse range of services these organisations may offer.

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