



23 February 2018

Our Ref: 20140518

Your Ref: AM2014/286

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Associate to Vice President Hatcher
Fair Work Commission
80 William Street
Woolloomooloo NSW 2011

Dear Associate

AM2014/286 - SUPPORTED EMPLOYMENT SERVICES AWARD 2010

1. QUESTIONS ON NOTICE

- 1.1 During the hearing in the above matter we undertook to provide the Fair Work Commission with:
- (a) our clients' position in relation to the use of external assessors as part of any classification structure/method(s) of wage assessment which the Commission deems appropriate for inclusion in the *Supported Employment Services Award 2010 (Award)* arising from the current review process; and
 - (b) further information regarding the provenance of the classification structure presently in the Award.

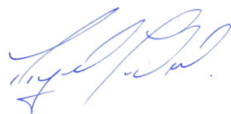
2. EXTERNAL ASSESSORS

- 2.1 Our clients have considered the question of external assessment. While this is a feature of the Government's SWS regime it is not a feature that applies in any other workplace to simply classifying an employee into a modern award classification structure. As such our clients see no practical reason why this sector should operate differently to all others and do not support external persons being required to classify employees.
- 2.2 If it was felt that, as a transition to the introduction of a classification structure approach, some level of external oversight was seen as desirable, our clients would support an approach in which the classification of employees was conducted by each ADE, with this activity being subject to periodic (annual, or as the Commission deems appropriate) auditing by an appropriate external body such as the DSS.

3. AWARD CLASSIFICATION STRUCTURE

- 3.1 We have reviewed historical versions of the Award back to 1993, when the Award was then called *The Australian Liquor, Hospitality and Miscellaneous Workers Union Supported Employment (Business Enterprises) Award 1993 (LHMU 1993 Award)*.
- 3.2 In addition to minor updates and amendments, in 2002 the LHMU 1993 Award was reviewed and simplified pursuant to item 51 of Part 2 of Schedule 4 of the *Workplace Relations and Other Legislation Amendment Act 1996* (as per the decision of Senior Deputy President Duncan, PR915201).
- 3.3 In 2005, by a decision of Commissioner Gay (PR961607), the name was changed to the *Liquor, Hospitality and Miscellaneous Union Supported Employment Services Award 2005 (LHMU 2005 Award)* and 11 wage assessment tools were inserted into the LHMU 2005 Award by Order dated 19 August 2005 (PR961610). These tools included the Business Services Wage Assessment Tool, the Supported Wages System and nine other proprietary private tools such as the Greenacres tool.
- 3.4 The current Award came into effect on 1 January 2010, replacing the LHMU 2005 Award.
- 3.5 Throughout this period, from 1993 through to the current iteration of the Award, the Classification Structure has remained largely unchanged, although there have been some minor variations and additions to the Classification Structure during that time.
- 3.6 By way of example, the indicative tasks in the Award at clauses B.2.3 (l), (m) and (n), and B.3.3 (m), (n) and (o) were not in the LHMU 1993 Award, and the indicative tasks relating to cleaning have been removed from Grade 2.
- 3.7 However, the vast majority of indicative tasks are identical to those in the LHMU 1993 Award, and the description of each of the Grades has remained almost verbatim.
- 3.8 In summary:
- (a) the classification structure in the Award has been derived from the classification structure used in the LHMU 1993 Award; and
 - (b) there has not been a major substantial change to the classification structure between 1993 and 2018, other than to update formatting, minor amendments to wording, and to add or amend indicative tasks.

Yours sincerely



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