

*FAIR WORK ACT 2009*

**FAIR WORK COMMISSION**

MATTER NO: AM 2016/6

**DRAFT PROPOSAL FOR A VARIATION TO THE REAL ESTATE INDUSTRY AWARD 2010 (“the award”) MADE BY THE QUEENSLAND REAL ESTATE INDUSTRIAL ORGANISATION OF EMPLOYERS.**

1. This is an amendment to clause 16. 1 of the award which is to be varied by adding the following words after the words “basis must not be engaged as a casual employee” set out at the end of that clause, namely, “but may be engaged as a part-time employee.”

2. This is an amendment to clause 16. 5 (a) of the award by deleting that subparagraph and adjusting the lettering of the remaining subparagraphs accordingly.

3. This is an amendment to clause 16 of the award by adding the following: –

16. 10. Where a commission-only employee is engaged on a part-time basis, namely for average weekly hours of less than 38, as permitted by clause 16.1 then his or her average weekly hours must be stated in the written agreement that he or she enters into pursuant to clause 16. 3 (a) (i).

16. 11. Any hour or hours worked in any week by a part-time commission-only employee outside of the average weekly hours stated in his or her written agreement where such hour or hours are worked at the specific direction of the employer must be paid for by the employer in respect of each hour at the ordinary hourly rate calculated by dividing the weekly rate set out in clause 14.1 for the relevant classification by 38.

16. 12. For the purpose of this clause, specific direction means that the employee was given an express instruction to perform work in excess of the average weekly hours stated in the employee’s written agreement.

16. 13. For avoidance of doubt, where the employee works hours in excess of those average weekly hours stated in his or her written agreement at their own initiative (i.e. without any express instruction from the employer to do so) the employee will not be entitled to payment in accordance with this clause.

16. 14. Any dispute as to whether or not the employer issued a specific direction as referred to in this clause must be dealt with under clause 9.

16. 15. Any hour or hours worked by a part-time employee in accordance with a specific direction referred to in clause 16.12 must be recorded by the employer within 7 days of the hour or hours being worked.