

## FAIR WORK COMMISSION

### VICTORIAN HOSPITALS' INDUSTRIAL ASSOCIATION

#### SUBMISSION REGARDING AM2018/26

1. The Victorian Hospitals' Industrial Association is a registered organisation representing members within public health, community health and other health and community organisations.
2. A number of our members employ people covered by the *Social, Community, Home Care and Disability Services Industry Award 2010*.
3. The Fair Work Commission (**Commission**) has requested that interested parties file submissions in relation to the provisional views set out in paragraphs [200] and [201] and the draft variation outlined in its decision of 2 September. Set out below are our submissions.
4. The provisional views of the Commission seek to introduce changes to the casual penalty rates from 1 December 2019. At paragraph 139 of its decision, the Commission recognised that it may take time for a funding arrangement to adapt to a change in circumstances, such as an increase in employment costs occasioned by a variation to the award safety net and that such matters can be addressed by appropriate transitional arrangements.
5. The suggested date of 1 December 2019 does not take into account that the price for funding services for the period from 1 December 2019 to 30 June 2019 has already been set. Accordingly, the date proposed does not allow employers adequate time to discuss the additional cost with funding bodies.
6. As a result, we respectfully request that any phasing in of the changes occur after 30 June 2020 and that they occur equally. That is, the casual overtime penalties should transition similar to the Public Holiday and Saturday and/or Sunday loading payments.
7. In addition, we note that the transitional arrangements for penalties that were introduced when the modern awards came into effect allowed employers to phase in penalty changes over a period of 4 years. We believe a similar approach should be taken and that any increases be phased in from 1 July 2020 over a 2 or 4 year period.
8. For administrative purposes we also recommend that the changes take effect on the First Full Pay Period on or After the particular dates that are decided for implementation.
9. Further, in relation to the overtime changes, we recommend the order provide sufficient clarity on how the casual overtime rate is to be calculated. Taking into account an example for a SACS Level 1, Pay Point 1 working one hour of overtime on a Monday we believe the words may result in employers paying either:

- ordinary rate (21.20) + casual loading (5.30) + overtime loading at the ordinary rate (10.60) = \$37.10 per hour; or
- ordinary rate inclusive of casual loading (26.50) time the penalty rate (time and a half – 1.5) = \$39.75 per hour

10. To ensure consistency, our preferred approach is that the payments apply in the same manner as the Public Holiday and Saturday and/or Sunday loadings.