



AUSTRALIAN INDUSTRIAL RELATIONS COMMISSION

Workplace Relations Act 1996

s. 576(e)(1) – Procedure for carrying out award modernisation process

IN THE MATTER OF:

AM 2008/13 – HEALTH AND WELFARE SERVICES (EXCLUDING SOCIAL AND COMMUNITY SERVICES)

SUPPLEMENTARY SUBMISSION OF THE HEALTH SERVICES UNION

1. When this matter was before the Commission in Melbourne on 3 and 4 December 2008, Commissioner Smith raised for consideration whether the Commission might make a Health Industry Award with occupation based classification streams. That model will be referred to herein as the "industry hybrid modern award".
2. The HSU's position is that which has been articulated to the Commission thus far in its submissions and draft award of 31 October 2008, and its submissions made to the Commission in its consultations.
3. In particular, the HSU continues to oppose the adoption of a separate occupational award for nursing.
4. In the HSU's submission, the ANF has not demonstrated sufficient basis for the nursing profession to have separate award coverage. When regard is had to the terms and conditions applicable to nurses and to other health professionals across the industry there are substantial areas of similarity and limited points of difference.

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5. One result of acceding to the ANF's submission, and its proposal for a stand alone award that would cover Registered Nurses, Enrolled Nurses and Assistants in Nursing would be that Assistants-in-Nursing and Personal Care Workers would be covered by separate awards. In the submission of the HSU, that would create an unworkable situation because:
 - a. Those classes of workers are amongst the most numerous in the industry, and in particular, in the aged care sector of the industry;
 - b. There is no clear distinction between the roles. This fact is relevant in two ways:
 - i. First, the creation of two named roles covered by separate awards would be productive of argument and confusion about the precise classification and coverage of a worker performing such tasks; and
 - ii. There is no imperative to deal with those workers in separate awards because there is no history of those workers having different award conditions, and no rationale based in their work for making such a distinction.
6. These further submissions are made in relation to the Commission's proposed industry hybrid model.
7. In the HSU's submission, an industry hybrid modern award is a model which is capable of meeting the objective of the Ministerial request of establishing a single award to have application across the industry, whilst also establishing an appropriate safety net of terms and conditions for each of the occupations engaged within the industry.
8. Since the consultation hearings, the HSU has developed a framework for an industry hybrid modern award, in the event that model is regarded as preferable by the Commission. Attached with these submissions are the following:
 - a. Draft Application clause;
 - b. Draft Classifications Schedule;
9. The HSU's submissions about the framework contained in the above documents is set out below.

Classifications Structure

10. The HSU Industry Hybrid Modern Award comprises 7 occupational streams:
 - a. Support;
 - b. Care;
 - c. Technical;
 - d. Administration and Management;
 - e. Medical/Dental;
 - f. Health Professional;
 - g. Nursing.
11. The scope of the streams is described in the Introduction to the Classifications Schedule.
12. The Classification matrix contains 11 Generic Classification Levels, commencing with industry entry-level positions at Health 1 and Health 2. The positions requiring the highest level of education, training and experience are at Health 10 and 11.
13. The Administration and Management stream is the only stream with employees at each of the Health levels in the Classification structure. The other streams occupy only some of the Health classification levels.
14. A generic classification system has been proposed so that the award has genuine industry application. The HSU Industry Hybrid Modern Award employs a matrix similar to that in the Manufacturing and Associated Industries and Occupations Award 2010 exposure draft. Workers and managers can identify their position within their stream, and the relativity of that position to workers in other streams. Where practicable, common criteria are used to determine the level applicable to an employee level, regardless of their stream.
15. Each of the levels in the matrix, other than Health 1, contains more than one pay point. The initial pay point for each level applies upon entry to that level. Progression through the pay points within a level occurs by reference to length of service, the acquisition of additional skills, or appointment to a position which requires additional responsibility or enhanced skills. The criteria for progression in each level are set out in the Classification structures relevant to the various streams.
16. Employees at Health 4 must have a Certificate III level (trade certificate level or equivalent) qualification. Each of the levels

Health 5 through to Health 10 require an ascending level of qualifications for *entry* at that level, as follows:

- Certificate IV;
 - Diploma (or equivalent);
 - Advanced Diploma (or equivalent);
 - 3 year degree (or equivalent);
 - 4 year degree (or equivalent);
 - 6 year qualification/Doctorate (or equivalent).
17. Progression through the levels and through the pay points within the levels is described in the classification structure. Progression occurs by reference to both passage of time and appointment.
 18. The rationale for the Streams, each Classification Level and the criteria for progression between them, is set out below.

Creation of Streams of Work

19. The streams of work within the draft classifications structure are both function-based and profession or occupation based.
20. Administration and Managerial functions are combined into a single stream. Workers in this stream are found at each level of the classification structure.
21. The areas of clinical practice have separate occupation-based streams.
22. Dentists and doctors are in the same clinical stream.
23. Nurses are contained in a separate occupational stream.
24. Health professionals, including allied health workers, and other professionals such as scientists, are contained in a single stream.
25. The draft Industry Hybrid Modern Award Classification structure also contains a "Care" stream. The Care stream includes workers in multi-skilled entry level and intermediate caring roles. Dental assistants, Allied Health Assistants and Aboriginal/Torres Strait Islander Health Workers are included in this stream. Additionally, this stream includes workers called Health Care Assistants, a term which is used in the draft to denote both Assistants in Nursing or Personal Care Workers. For the reasons set out above it is submitted it would be counter-productive and inequitable to afford these workers different pay or conditions.

THE CLASSIFICATION LEVELS

Health 1

26. Health 1 is an entry-level position which does not require any previous skills, training or industry experience.
27. No workers in any of the clinical streams (Nursing, Health Professional, Dental/Medical) or the Care stream are found at this level. The classification only contains workers in the Support, Technical and Administration and Management streams. The indicative tasks for workers at this level are contained in the Classification Level Descriptors – Care, Support, Technical and Administration and Management Streams.
28. Equivalent classifications in current awards include the following:
 - a. General Services 1 – *Health and Allied Services – Private Sector Victoria Award – AT783872*;
 - b. General Services 1 – *Health and Allied Services – Public Sector Victoria Award – AT783945*;
 - c. Grade 1 positions – *Aged Care General Services (State) Award (NSW NAPSA) – AN120011*;
 - d. Hospital Worker, Level 1 – *Private Hospital and Residential Aged Care (Nursing Homes) Award 2002* (an award which covers employers in Western Australia in the residential care industry) – AP817073
 - e. Level 1 positions – *Dental Assistants and Secretaries (State) Award (NSW NAPSA) – AN120179*
 - f. Level 1 – *Clerical Award – Private Hospitals – State 2003 – AN140065*
29. It is not envisaged that any workers within this classification will remain at this level for any more than 6 months. Within that period, the employee will either be determined by the employer to be unsuitable, or will have satisfied their employer of their capacity to perform the tasks associated with their role to a satisfactory standard. That assessment of suitability should take place as early as possible within the first six months of engagement.
30. An employee at this level may request assessment of suitability by the employer for the purpose of progressing to Health 2.

Health 2

31. Health 2 is a classification, which, like Health 1, requires no formal qualification. It comprises two types of workers:

- a. First, workers who have commenced in a Health 1 position and, within the first six months of their commencement, have demonstrated the competencies relevant to their role and been determined to be suitable; and
 - b. Workers in positions for which Health 2 is regarded as industry entry level.
32. The latter type of position is distinguished from the earlier by the fact that some skills are required for entry. Those skills may have been acquired outside the health industry. For example, Health 2 is the entry level for a driver, who must possess a driving licence. A typist at this level must possess typing skills. Health 2 is also the industry entry level for cooks, who must have some cooking skills in order to perform the fundamental requirements of their position.
33. The indicative tasks for workers at this level are contained in the Classification Level Descriptors – Care, Support, Technical and Administration and Management Streams.
34. Health 2 is regarded as the industry entry level for employees in Care stream roles, such as health care assistants (a new generic title to cover the workers formerly designated either as Assistants in Nursing or Personal Care Workers), untrained dental assistants and Aboriginal and Torres Strait Islander health workers. It is not envisaged that these workers will remain within this level for any more than 6 months. Within that period, the employee will either be determined by the employer to be unsuitable for the position, or will have satisfied their employer of their capacity to perform the tasks associated with their role to a satisfactory standard. That assessment of suitability should take place as early as possible within the first six months of engagement. An employee may request assessment of suitability by the employer for the purpose of progressing to Health 3.
35. Workers in the other streams with positions at Health 2 level, that is, in the Administration and Management, Technical and Support Streams can advance beyond the initial pay point in the following manner:
 - a. To the second level within the classification, that is, to Health 2(b), by completion of one year's service;

OR

- b. To the first pay point of Health 3 by the completion of Certificate II level training or its equivalent.

36. Equivalent classifications in current awards include the following:

- a. Skill Levels 2 and 3 – *Health and Allied Services – Private Sector Victoria Award – AT783872*;
- b. Skill Levels 2 and 3 – *Health and Allied Services – Public Sector Victoria Award – AT783945*;
- c. Dental Assistant – unqualified – *Dental (Private Sector Victoria) Award 1998 – AP779110CRV*;
- d. Levels 2/3 – *Clerical Award – Private Hospitals – State 2003 – AN140065*

Health 3

37. Health 3 contains workers in the Support, Care, Technical and Administration and Management streams. Workers at this level require Certificate II qualifications (as defined under the Australian Qualifications Framework) or their equivalent.

38. The indicative tasks for workers at this level across each of the above streams are contained in the Classification Level Descriptors – Care, Support, Technical and Administration and Management Streams.

39. The Level contains a second pay point to which all employees progress automatically after twelve months of service. Progression may occur prior to that time on assessment by the employer.

40. Equivalent classifications in current awards include the following:

- a. Level 4 – *Clerical Award – Private Hospitals – State 2003 – AN140065*

Health 4

41. Health 4 is a classification level, entry to which requires a Certificate III qualification (trade certificate or equivalent).

42. Health 4 contains employees in the Support, Care, Technical and Administration and Management streams.

43. The indicative tasks for workers at this level across each of the above streams are contained in the Classification Level Descriptors – Care, Support, Technical and Administration and Management Streams.

44. Health 4 is the "standard rate", or the 100% rate for the purpose of maintaining relativities between the levels, and for the purpose of the calculation of allowances.
45. Health 4 has 3 pay points within the level, being:
 - a. 4(a) – the entry level point;
 - b. 4(b) – the point to which all workers progress after completion of twelve months' service; and
 - c. 4(c) – the point to which all workers progress after twelve months' service at pay point 4(b).
46. Equivalent classifications in current awards include the following:
 - a. Level 3 positions – *Dental Assistants and Secretaries (State) Award (NSW NAPSA) – AN120179*

Health 5

47. Health 5 is defined by the requirement that workers at this level possess either a Certificate IV (post-trade certificate) qualification or an Associate Diploma or equivalent.
48. There are three pay points within this classification level.
49. Health 5 is the first level in the Classifications Matrix containing employees in the Nursing Stream. This level is the entry point for Enrolled Nurses. However, an enrolled nurse may, depending on their experience and knowledge, be appointed at any one of the three pay point levels within Health 5 (or indeed, at any level above Health 5, pay point 1). The requirements for appointment at the higher pay points are set out in the classification structure. Enrolled nurses progress through the pay points in levels 5, 6 and 7 to every second pay point after entry level with the acquisition of each twelve months of additional service.
50. Workers in the Support, Care, Technical and Administration and Management Streams are also found at this level.
51. The criteria for progression of those employees to the pay points in Health 5 is as follows:
 - a. 5(a) – the entry level point;
 - b. 5(b) – the point to which all workers progress after completion of twelve months' service; and

- c. 5(c) – the point to which all workers progress after twelve months' service at pay point 5(b).
52. Equivalent classifications in current awards include the following:
- a. Enrolled Nurse – *Nurses Private Employment (A.C.T.) Award 2002* – AP818792CRA
 - b. Enrolled Nurse – *Nurses (South Australian Public Sector) Award 2002* – AP817220
 - c. Recreation Activities Officer – *Private Hospital Employees (State) Award (NSW NAPSA)* – AN120434
 - d. Credit officer, public relations officer, supply officer, food services/catering officer – *The Private Hospital Administrative Officers - Victoria Award 2005* – AP838706CRV

Health 6

53. Health 6 is defined by the requirement that workers who enter at this level are required to possess a Diploma qualification or equivalent.
54. The only workers from the clinical streams at Health 6 are in the Nursing Stream. Enrolled nurses may either be appointed to a position in Health 6 or will progress to pay points within Health 6 according to their length of service.
55. Workers in the Support, Health Care Assistant, Technical and Administration/Clerical/Management Streams are also found at this level.
56. Health 6 has 3 pay points within the level. The criteria for progression to those pay points differs between the streams. For the non-Clinical streams, progression is as follows:
- a. 6(a) – the entry level point;
 - b. 6(b) – the point to which all workers progress after completion of twelve months' service at 6(a); and
 - c. 6(c) – the point to which all workers progress after twelve months' service at pay point 6(b).
57. Equivalent classifications in current awards include the following:
- a. Enrolled Nurse (Paypoint Y3) – *Nurses Private Employment (A.C.T.) Award 2002* – AP818792CRA
 - b. Enrolled Nurse (Paypoint Y3) – *Nurses (South Australian Public Sector) Award 2002* – AP817220

- c. Level 2, Senior Dental Technician – *Dental Technicians and Attendants Award* – AN150045

Health 7

- 58. Health 7 is defined by the requirement that workers who enter at this level possess an Advanced Diploma or equivalent.
- 59. Nursing is the only clinical stream where there may be positions at Health 7 level. Enrolled nurses enter this level either by appointment, or by reference to length of service. This is the highest level in the structure to which Enrolled Nurses progress without the acquisition of a further qualification.
- 60. The only other streams with workers at this level are the Administration and Management Stream and the Technical Stream.
- 61. Technical stream workers at this level possess the highest degree of skills in this stream. Pharmacy Technicians, Anaesthetic Technicians and Dental Prosthetists are classified at this level.
- 62. In the Clerical, Administrative and Management Stream, workers in the stream are in management roles, specialist roles or higher level administrative positions. The indicative tasks of management roles at this level are set out in the Management section of the Classification structure. Examples of workers in these roles include the roles of Laboratory Supervisor, Medical Stenographer and Information Services Officer.
- 63. Health 7 has 3 pay points within the level. Progression, for workers at each of the streams in this level is as follows:
 - a. 7(a) – the entry level point and the point to which an Enrolled Nurse will progress after one year at Health 6, pay point 3 (a maximum of six years service);
 - b. 7(b) – the point to which all workers progress after completion of twelve months' service; and
 - c. 7(c) – the point to which all workers progress after completion of twelve months' service at 7(b).
- 64. Equivalent classifications in current awards include the following:
 - a. Enrolled Nurse – *Nurses Private Employment (A.C.T.) Award 2002* – AP818792CRA
 - b. Enrolled Nurse – *Nurses (South Australian Public Sector) Award 2002* – AP817220

Health 8

65. Health 8 is defined by the requirement that workers at this level possess either a three-year bachelor degree (such as a degree in nursing) or equivalent.
66. Health 8 contains workers within 2 of the clinical streams: nursing and health professionals. This level is the entry point for Registered Nurses and also health professionals such as clinical perfusionists, oral health therapists and dental hygienists. Diversional and play therapists also undertake a three-year degree.
67. Workers in the Administration/Clerical/Management Stream are also found at this level. Middle level managers are found at this level, as are experienced specialists such as accountants and finance managers .
68. Health 8 has 3 pay points within the level. Progression through the pay points within the level is as follows:
 - a. 8(a) – the entry level point;
 - b. 8(b) – the point to which all workers progress after completion of twelve months' service; and
 - c. 8(c) – a further pay point to which all workers progress after completion of a further twelve months' service.
69. Equivalent classifications in current awards include the following:
 - a. Registered Nurse, Level 1 – *Nurses Private Employment (A.C.T.) Award 2002 – AP818792CRA*
 - b. Registered Nurse, Level 1 – *Nurses (South Australian Public Sector) Award 2002 – AP817220*

Health 9

70. Nurses, Health Professionals and Managers are found at this level.
71. Health 9 is:
 - a. The entry level classification for health professionals whose professional registration requires completion of a four year degree or its equivalent;
 - b. A level to which Registered Nurses who have progressed through the pay points in Health 8 will progress after further service;

- c. A level which applies to Registered Nurses appointed to specialist positions, regardless of years of service;
 - d. Entry level classification for workers in management roles which require a four year degree or its equivalent.
72. Many health professionals require a four-year degree to practice. Physiotherapists and Occupational Therapists are two examples of such professionals.
73. Health 9, pay point 1 is the entry level for Nurse Specialists, as defined in the classifications. Nurse Specialists are registered nurses in roles which provide leadership, including clinical leadership, and role modelling, particularly in the areas of research, quality assurance. Nurse Specialists are often involved in staff and policy development.
74. For those professions where a Masters is a mandatory requirement of practice, such as Audiology, entry is at pay point 2 of this level.
75. Management employees at this level are senior managers, professionals and specialists.
76. There are three pay points within this Health Level. Employees at this level will progress to subsequent pay points of this level by reference to their completion of each additional twelve months' satisfactory service.
77. Equivalent classifications in current awards include the following:
- a. Registered Nurse, Level 2 – *Nurses (Tasmanian Private Sector Award) 2005*
 - b. Physiotherapist (qualified) – UG1 - *Health Services Union of Australia (Health Professional Services – Private Sector Victoria) Award 2004 – AP835426CRV*
 - c. Radiation Therapy Technologist (Qualified) – UG1 - *Health Services Union of Australia (Health Professional Services – Private Sector Victoria) Award 2004 – AP835426CRV*
 - d. Medical Scientist 1 – *Medical Scientists (South Australian Public Sector) Award AN150080*

Health 10

78. Health 10 contains employees in each of the clinical streams, and the Administration and Management stream.

79. In the clinical streams, Health 10 is a level applicable as an entry level for those clinicians for whom a 5 or 6-year qualification, or doctoral qualifications are required for entry.
80. The clinicians for whom 5 or 6 year qualifications or doctoral qualifications are required for entry are as follows:
- a. Medical/Dental Stream– Interns and newly qualified Dental officers;
 - b. Health Professional Streams – Clinical Psychologists and Optometrists.
81. Those employees move to the second and third pay points within Level 10 upon completion of twelve and twenty-four months' service respectively.
82. Nurses move into Health 10 only by appointment, and not as a result of incremental improvement by reference to length of service.
83. In the Nursing Stream, Health 10 is the classification to which Registered Nurses may progress by appointment to one of the following roles:
- a. Nurse Manager;
 - b. Nurse Consultant;
 - c. Nurse Educator;
 - d. Assistant Director of Nursing.
84. Health Professionals whose practice entry qualification is less than a 5 or 6 year degree move into Health 10 level only by appointment to one of the senior specialist roles which are described in the Health Professional Stream Descriptors.
85. Equivalent classifications in current awards include the following:
- a. Registered Nurse, Levels $3\frac{3}{4}$ - *Nurses (Queensland Public Health Sector) Award 2004* - AP835218
 - b. Registered Nurse, Level 4 - *Nurses (SA) Award* - AN150097
 - c. Hospital Medical Officer - *Health and Welfare Services - Private Hospital Medical Officers - Victoria Award 2003* - AP825417CRV

Health 11

86. Health 11 is the level applicable to the following positions:

- a. Medical Roles: Registrars, Senior Registrars and Career Medical Officers;
 - b. Dental Roles: Senior Dental Officers and Dental Specialists;
 - c. Health Professional Roles: senior health professionals and Principal Officers specific to a particular health professional discipline;
 - d. Nursing Roles: Directors of Nursing and Nurse Practitioner roles;
 - e. Chief Executives or Senior Line Executives.
87. The descriptors of the roles at each of the pay points within this level are contained in the Descriptor schedules for the relevant Classification Streams.
88. Progression through the pay points at Health 11 is by appointment only. There is no incremental progression through Health 11 by reference to length of service.
89. Examples of current award classifications that would be located at this level are:-
- a. Chief Radiographer – *Private Hospital Employees (State) Award (NSW NAPSA) – AN120434*;
 - b. Director of Medical Services – *Hospital Specialists and Medical Administrators Award 2002 – AP816036*;
 - c. Registered Nurse, Level 5 (Director of Nursing) – *Nurses (SA) Award – AN150097*

Supervision Allowance

90. The Health Services Union submits that a modern award for the Health Industry should contain an allowance to recognise and compensate the additional burden on workers for supervising staff. We submit that a Supervision allowance be included in the general allowances and take the following form:

Supervision allowance

The supervision allowance is payable to an employee who is required to supervise other employees with the amount of such allowance depending upon the number of employees supervised.

Number of employees	Percentage of Standard Rate
1-5 employees	4.22% per week
6-10 employees	4.87% per week

11-20 employees	6.32% per week
More than 20 employees	7.46% per week

Health Services Union

14 January 2009