

**IN THE FAIR WORK COMMISSION**

*Fair Work Act 2009*

s.156 – 4 Yearly Review of Modern Awards

**4 yearly review of modern awards—Family & Domestic Violence Leave Clause**

(AM2015/1)

**SUBMISSIONS OF THE AUSTRALIAN COUNCIL OF TRADE UNIONS**

**DATE:** 10 May 2017

**D No:** 56/2017

Lodged by: ACTU

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## **Introduction**

- 1) On 28 April, Ross J issued a Statement directing interested parties to provide submissions on the provisional view that *AM2015/1 - Family and Domestic Violence Leave* should be referred to the Federal Court on the question of whether the two remaining members of the Full-Bench are permitted to publish their decision.
- 2) The parties have been asked to provide their views on the potential referral and the form of the proposed statement of facts and questions for the Federal Court.
- 3) These matters are addressed in this submission, which is filed further to the ACTU's submissions dated 4 and 12 April 2017.

## **Proposed Federal Court referral**

- 4) The ACTU agrees that Ross J should exercise his discretion to refer a question of law to the Federal Court under s.608(1) of the FW Act, in order to ensure certainty in the final outcome of *AM2015/1 - Family and Domestic Violence Leave*.
- 5) Attachment A to the Statement of Ross J dated 28 April 2017 sets out on a provisional basis the statement of facts, questions of law and other materials proposed to be provided to the Federal Court.
- 6) The ACTU concurs with the proposed statement of facts, questions of law and other material proposed to be provided, and agrees that the Federal Court's answers to the questions proposed will dispose of the issue.

The Australian Council of Trade Unions

10 May 2017