



NEW SOUTH WALES SOCIETY OF
LABOR LAWYERS

Statement Regarding the Recent Application to Amend the *Legal Services Award*

The NSW Society of Labor Lawyers (**the Society**) believes that all workers should be entitled to the protection of a minimum award standard of wages and conditions, including the many workers in the legal profession in Australia.

On 15 April 2020, an 'Application to vary a modern award' was sponsored by a number of law firms to amend the *Legal Services Award* (**the Award**) in light of the COVID-19 pandemic. The Award covers law graduates, and legal, clerical and administrative employees (a copy of the coverage provisions is annexed to this statement). The amendments proposed include the ability to reduce hours of work, direction for them to take annual leave at half pay and, in some cases, take unpaid leave during a workplace close-down.

We understand that the COVID-19 pandemic brings with it novel challenges for businesses as they adjust to Government-enforced lockdowns across the country. However, for a legal industry that has historically not been unionised, such applications, brought by law firms without direct input from the affected workers, are a dangerous precedent to set.

Fortunately for the legal profession, **our trade unions are taking steps to oppose the application to vary the Award and provide counter-arguments to the Fair Work Commission**. These actions are done on behalf of persons affected by the Award, whether they are union members or not.

In better times, it is easy for legal professionals to become complacent when it comes to trade union membership. But at times like these, it is crucial that all employees within the legal industry have a voice to represent them.

You may not be impacted by any changes to the Award, but chances are, you work with someone that is. Those workers who are covered by, and paid in accordance with, the Award, are often the more vulnerable workers in your workplace.

The Society is calling upon its members and supporters in the legal profession to join their relevant trade union so that during this pandemic the lowest paid workers in our practices are properly represented, and after the pandemic is over, we build a better, more compassionate legal profession.

See overleaf for contact details for each relevant trade union.

TRADE UNIONS THAT COVER LEGAL PROFESSIONALS AND SUPPORT STAFF

Union	Coverage	How to Join
Public Service Association	Legal professionals and support staff working in the New South Wales Public Service	https://psa.asn.au/
Commonwealth and Public Sector Union	Legal professionals and legal support staff working in the Australian (Commonwealth) Public Service	https://web.cpsu.org.au/join/
United Services Union / Australian Services Union	Legal professionals and support staff working in private legal practices	https://usu.org.au/join/

Approved: 13 May 2020

ANNEXURE

Legal Services Award 2020

MySuper product has the meaning given by the *Superannuation Industry (Supervision) Act 1993* (Cth).

NES means the National Employment Standards as contained in [sections 59 to 131](#) of the [Act](#).

on-hire means the on-hire of an employee by their employer to a client, where such employee works under the general guidance and instruction of the client or a representative of the client.

standard rate means the minimum weekly wage for a Level 2 employee in clause 15—Minimum rates.

work experience clerk means a person, whether a student or not, who is employed for not more than 2 months in any consecutive period of 12 months for the purposes of gaining experience, but does not include law students or any person who is undertaking work experience according to the provisions of the relevant State or Territory legislation or secondary school student on a formal work program.

3. The National Employment Standards and this award

- 3.1 The [National Employment Standards](#) (NES) and this award contain the minimum conditions of employment for employees covered by this award.
- 3.2 Where this award refers to a condition of employment provided for in the [NES](#), the [NES](#) definition applies.
- 3.3 The employer must ensure that copies of this award and the [NES](#) are available to all employees to whom they apply, either on a notice board which is conveniently located at or near the workplace or through accessible electronic means.

4. Coverage

- 4.1 This industry award covers employers throughout Australia in the legal services industry and their employees in the classifications listed in Schedule A—Classifications to the exclusion of any other modern award.
- 4.2 The **legal services industry** means employers engaged in the business of providing legal and legal support services.
- 4.3 The award does not cover employers in the following industries:
 - (a) community legal centres;
 - (b) aboriginal legal services; or
 - (c) an employer whose primary activity is not within the legal services industry.
- 4.4 This award covers any employer which supplies labour on an on-hire basis in the legal services industry in respect of on-hire employees in classifications covered by this award, and those on-hire employees, while engaged in the performance of work for a

business in that industry. Clause 4.4 operates subject to the exclusions from coverage in this award.

- 4.5** This award covers employers which provide group training services for trainees engaged in the legal services industry and/or parts of that industry and those trainees engaged by a group training service hosted by a company to perform work at a location where the activities described in clause 4.1 are being performed. Clause 4.5 operates subject to the exclusions from coverage in this award.
- 4.6** This award does not cover:
- (a) employees excluded from award coverage by the [Act](#);
 - (b) employees who are covered by a modern enterprise award or an enterprise instrument (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees; or
 - (c) employees who are covered by a State reference public sector modern award or a State reference public sector transitional award (within the meaning of the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth)), or employers in relation to those employees.
- 4.7** Where an employer is covered by more than one award, an employee of that employer is covered by the award classification which is most appropriate to the work performed by the employee and to the environment in which the employee normally performs the work.

NOTE: Where there is no classification for a particular employee in this award it is possible that the employer and that employee are covered by an award with occupational coverage.

5. Individual flexibility arrangements

- 5.1** Despite anything else in this award, an employer and an individual employee may agree to vary the application of the terms of this award relating to any of the following in order to meet the genuine needs of both the employee and the employer:
- (a) arrangements for when work is performed; or
 - (b) overtime rates; or
 - (c) penalty rates; or
 - (d) allowances; or
 - (e) annual leave loading.
- 5.2** An agreement must be one that is genuinely made by the employer and the individual employee without coercion or duress.
- 5.3** An agreement may only be made after the individual employee has commenced employment with the employer.

Schedule A—Classifications

A.1 Level 1—Legal, clerical and administrative employee

A.1.1 Characteristics

- (a) Employees at this level may work under direct supervision with regular checking, but may take the form of less direct guidance and some autonomy where working in teams is required.
- (b) Competency at this level involves the application of knowledge and skill to a limited range of tasks and roles. There is a specified range of contexts where the choice of actions required is clear.
- (c) Competencies are used within established routines, methods and procedures that are predictable and within which judgment against established criteria is involved.
- (d) An indicative training and vocational educational level for this level is Year 10 standard.

A.1.2 Generic skills

Indicative typical duties and skills at this level may include:

(a) Problem solving

Identify and resolve problems by being able to:

- identify routine problems;
- identify and assess options; and
- implement solutions.

(b) Literacy

Read and write routine texts.

(c) Numeracy

Use numbers in the workplace by being able to:

- operate with numbers to complete routine tasks;
- calculate numerical and related information to perform routine tasks; and
- interpret and present numerical and related information to complete routine tasks.

A.1.3 Core skills

(a) Information handling

- (i) To handle mail to facilitate communication by being able to:

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- receive and distribute incoming mail;
 - receive and dispatch outgoing mail; and
 - collate and dispatch documents for bulk mailing.
- (ii) To handle information to maintain access to and security of records by being able to:
- file documents; and
 - identify and retrieve documents.

(b) Communication

To process information to facilitate communication flow by being able to:

- receive and relay oral messages; and
- receive and relay written messages.

(c) Enterprise/industry

To apply knowledge of the enterprise/industry to complete routine administrative tasks, by being able to:

- identify key functions and personnel/departments; and
- apply office procedures.

(d) Technology

(i) To operate a range of office equipment to complete routine tasks by being able to:

- select equipment to be used for tasks;
- locate equipment to be used for tasks; and
- operate equipment.

(ii) To access and retrieve computer data using keyboard skills by being able to:

- open files;
- retrieve data;
- close files; and
- shut down equipment.

(e) Organisational

To follow established work schedules to achieve designated group/section goals by being able to plan and organise personal daily work routine.

(f) Team

To participate in a team to achieve designated tasks by being able to complete allocated tasks.

(g) Business/financial

To record and prepare financial documentation for cash flow and accounting records by being able to:

- record petty cash transactions;
- prepare banking documents; and
- prepare business source documents.

(h) Legal

Not applicable at this level.

A.2 Level 2—Legal, clerical and administrative employee

A.2.1 Characteristics

- (a) Employees at this level may work under routine supervision with intermittent checking, but this checking may take the form of general guidance and considerable autonomy where working in teams is required. Responsibility for some roles and co-ordination within a team may be required.
- (b) Competency at this level involves the application of knowledge and skills to a range of tasks and roles. There is a defined range of contexts where the choice of actions required is usually clear, with limited complexity in the choice.
- (c) Competencies are used within established routines, methods and procedures, in some cases involving discretion and judgment about possible actions.
- (d) An indicative training and vocational educational level for this level is Year 11 standard.

A.2.2 Generic skills

As per Level 1.

A.2.3 Core skills

As per Level 1, together with the following:

(a) Information handling

Process information to provide access to current records, by being able to:

- update and modify existing organisational records; and
- remove inactive and dead files.

(b) Communication

Process and respond to information to facilitate communication flow by being able to:

- respond to incoming telephone calls;
- make telephone calls; and
- draft simple correspondence.

(c) Enterprise/industry

(i) Respond to and act upon internal/external enquiries to promote the products and services of the organisation by being able to:

- provide information from own function area;
- re-direct enquiries; and
- undertake follow up action where required.

(ii) Receive visitors to ensure a positive image of the organisation is presented by being able to:

- greet visitors; and
- attend to visitors' needs.

(d) Technology

(i) Operate a range of office equipment to complete non-routine tasks by being able to:

- operate equipment; and
- identify and/or rectify minor faults.

(ii) Edit computer data using keyboard skills by being able to:

- open files;
- edit information;
- save and exit; and
- shut down equipment.

(iii) Produce simple documents using keyboard skills by being able to document from written text using standard format.

(e) Organisation

Establish own work schedule to achieve designated group/section goals by being able to organise own work schedule.

(f) Team

Participate in allocation and completion of team tasks by being able to:

- participate in identifying tasks for team;
- complete own tasks; and
- assist others to complete (team) tasks.

(g) Business/financial

Process financial documentation for cash flow and accounting records by being able to:

- reconcile invoices for payment to creditors;
- prepare statements for debtors;
- enter payment summaries into journals; and
- post journals to ledgers.

(h) Legal

Not applicable at this level.

A.3 Level 3—Legal, clerical and administrative employee

A.3.1 Characteristics

- (a) Work is under limited supervision with checking related to overall progress, but may take the form of broad guidance and autonomy where working in teams is required. Responsibility for the work of others may be involved, and team co-ordination may be required.
- (b) Competency at this level involves the application of knowledge with depth in some areas and a broad range of skills. There is a range of tasks and roles in a variety of contexts, with some complexity in the extent and choice of actions required. Competencies are used within routines, methods and procedures where some discretion and judgment is required in selection of equipment, work organisation, services, actions and achieving outcomes within time constraints.
- (c) An indicative training and educational level for this level is the Trade Certificate or equivalent TAFE/Year 12 standard.

A.3.2 Generic skills

As per Levels 1 and 2, together with the following:

(a) Problem solving

Identify, clarify and resolve problems by being able to:

- identify non-routine problems;

- clarify the nature of the problem;
- investigate options and decide on the appropriate course of action;
- implement solutions;
- evaluate and report on effectiveness of solutions and related outcomes;
- assist others to identify and resolve problems in the workplace; and
- report on effectiveness of solutions and related outcomes.

(b) Literacy

- write non-routine texts; and
- read non-routine texts.

(c) Numeracy

Use numbers in the workplace by being able to:

- operate with numbers to complete non-routine tasks;
- calculate numerical and related information to perform non-routine tasks; and
- interpret and present numerical and related information to complete non-routine tasks.

A.3.3 Core skills

As per Levels 1 and 2, together with the following:

(a) Information handling

Maintain information records system to ensure integrity of system by being able to:

- assemble new files;
- identify and process inactive and dead files; and
- record documentation movements.

(b) Communication

(i) Collect and provide information to facilitate communication flow by being able to:

- respond to telephone, oral and written requests for information; and
- draft routine correspondence in response to a need or request.

(ii) Transcribe oral instructions by writing shorthand notes for the production of a text by being able to take dictation.

(c) Enterprise/industry

(i) Provide information and advice to promote the products/services of the organisation by being able to:

- clarify specific needs of a client;
- provide information and advice; and
- follow up.

(ii) Process client complaints to ensure the goals of the organisation are met by being able to:

- clarify the nature of the complaint;
- identify options for resolution; and
- act to resolve the complaint.

(d) Technology

(i) Co-ordinate the use of a range of office equipment to complete complex tasks by being able to:

- operate equipment; and
- maintain equipment.

(ii) Organise the copying, collating and binding of documents by being able to:

- select appropriate media;
- copy and collate documents; and
- distribute documents.

(iii) Produce complex documents using keyboard skills by being able to:

- establish document structure;
- produce documents; and
- shut down equipment.

(e) Organisational

Organise schedules to achieve agreed group/section goals by being able to:

- co-ordinate own work routine with others;
- make and record appointments on behalf of another; and
- make travel and accommodation bookings in line with given itinerary.

(f) Team

Negotiate with team members to allocate and complete tasks to achieve group goals by being able to:

- clarify tasks to achieve group goals;
- negotiate allocation of tasks; and
- monitor completion of allocated tasks.

(g) Business/financial

(i) Monitor records of income and expenditure for budgetary records by being able to:

- reconcile accounts to balance; and
- prepare bank reconciliations.

(ii) Monitor cash control accounting purposes by being able to:

- document and lodge takings at a bank;
- receive and document payments/takings;
- dispatch statements to debtors;
- follow up and record outstanding accounts; and
- dispatch payments to creditors.

(iii) Monitor stock levels for control purposes by being able to maintain stock control records.

(h) Legal

An understanding of the basic structures of the relevant State or Territory legal system by being able to:

- locate the major legal institutions and process standard legal procedures;
- operate within the information channels and procedures of the institutions; and
- exhibit a basic understanding of areas of law for the purposes of information flow and referral.

A.4 Level 4—Legal, clerical and administrative employee

A.4.1 Characteristics

- (a)** The employee may be required to work without supervision, with general guidance on progress and outcomes sought as required. The work of others may be supervised or teams guided or facilitated. Responsibility for and limited organisation of the work of others may be involved.

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- (b) Competency at this level involves the application of knowledge with depth in some areas and a broad range of skills. There is a wide range of tasks and roles in a variety of contexts, with complexity in the range and choice of actions required.
- (c) Competencies are used within routines, methods and procedures where discretion and judgment is required, for both self and others, in planning and selection of equipment, work organisation, services, actions and achieving outcomes within time constraints.
- (d) An indicative training and vocational educational level for this level is TAFE Advanced Certificate.

A.4.2 Generic skills

As per Levels 1, 2 and 3 together with the following:

(a) Problem solving

Identify, clarify and resolve problems by being able to:

- identify problems;
- clarify the nature of the problem;
- determine criteria for optimal solution;
- implement solution;
- evaluate and report on effectiveness of solution and related outcomes; and
- assist others to identify, clarify and resolve problems in the workplace.

(b) Literacy

- compose routine and non-routine texts; and
- read and analyse routine and non-routine texts.

(c) Numeracy

Use numbers in the workplace by being able to:

- operate with numbers to establish procedures;
- calculate numerical and related information to establish procedures; and
- interpret and present numerical and related information to establish procedures.

A.4.3 Core skills

(a) Information handling

Manage an established records management system to ensure integrity of the system by being able to:

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- maintain existing filing arrangements;
- ensure distribution of files and records;
- maintain security of filing system; and
- train staff.

(b) Communication

- (i) Organise and provide information to facilitate communication flow by being able to:
- receive and process a request for information;
 - identify information sources; and
 - compose reports/correspondence.
- (ii) Transcribe oral instructions by writing shorthand notes for the production of a text by being able to take dictation.

(c) Enterprise/industry

Provide advice in order to meet current and anticipated client requirements by being able to:

- identify current client requirements;
- provide information on current service provision and resource allocation within area of responsibility; and
- identify trends in client requirements.

(d) Technology

- (i) Produce complex documents, reports and work sheets using keyboard skills by being able to:
- determine presentation and format documentation;
 - produce documents; and
 - shut down equipment.
- (ii) Operate computer equipment to maintain storage media and filing system by being able to:
- maintain storage media;
 - maintain filing system;
 - shut down equipment; and
 - train others in the use of office equipment.
- (iii) Operate and maintain computer printers by being able to:

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- set printers for document requirements; and
- maintain printers.

(e) **Organisational**

(i) Manage appointments to achieve identified goals by being able to:

- manage a diary on behalf of another/others; and
- assist with appointment preparation and follow up.

(ii) Plan business trips and associated itinerary for management/executive to ensure effective use of time management principles by being able to:

- organise business itinerary; and
- identify credit facilities.

(iii) Plan meetings to enable the stated objectives of the meeting to be met by being able to:

- prepare documentation for meetings;
- make meeting arrangements; and
- record minutes of meetings.

(f) **Team**

Manage the team to ensure team goals are achieved by being able to:

- plan work for the team;
- allocate tasks to members of the team;
- monitor team performance; and
- provide training for team members.

(g) **Business/financial**

Produce end of period reports for cash flow projections and budgetary records by being able to:

- prepare financial reports;
- undertake and document costing procedures; and
- draft financial forecasts/budgets.

(h) **Legal**

An understanding and appreciation of the structures of the relevant State or Territory legal system by being able to:

- acquire and apply a limited knowledge of professional legal functions under direct supervision as a clerk by being able to interview clients, draft (for checking) documents and instructing on standard legal matters; and
- exhibit a basic understanding of different areas of law as they are dealt with, within the firm or between firms or between the firm and legal institutions for means of referral.

A.5 Level 5—Legal, clerical and administrative employee

A.5.1 Characteristics

- (a) An employee at this level may work under broad guidance. The work of others may be supervised or teams guided. Responsibility for the planning and management of the work of others may be involved.
- (b) Competency at this level involves the self-directed application of knowledge with substantial depth in some areas and a range of technical and other skills to tasks, roles and functions in both varied and highly specific contexts.
- (c) Competencies are normally used independently and both routinely and non-routinely. Judgment is required in planning and selecting appropriate equipment, services, techniques and work organisation for self and others.
- (d) An indicative training and vocational education level for this level is part achievement of Associate Diploma at TAFE or tertiary level (or equivalent).

A.5.2 Generic skills

As per Levels 1, 2, 3 and 4.

A.5.3 Core skills

As per Levels 1, 2, 3 and 4 together with the following:

(a) Information handling

Establish a records system to ensure integrity of system by being able to:

- determine the needs of the organisation;
- select appropriate system;
- implement new/improved system; and
- provide staff training.

Establish and maintain library resource collection by being able to:

- store publications;
- update incoming publications; and
- circulate publications.

(b) Communication

Initiate research and prepare information to facilitate communication flow by being able to:

- identify need for documents;
- identify need for research;
- obtain data from external sources;
- prepare drafts; and
- produce reports.

(c) Enterprise/industry

Provide advice on response to the changing environment in order to achieve organisational goals by being able to:

- analyse changes to the internal/external environment which impact on the role of the department or enterprise;
- assist with the development of options for future strategies; and
- assist with planning to match future requirements.

(d) Technology

Manage the design and development of documents, reports and work sheets by being able to:

- identify document requirements; and
- design document format.

Establish, maintain and supervise a small network by being able to:

- establish a small network;
- maintain a small network;
- assist network users;
- shut down network equipment; and
- train network users.

(e) Organisational

Plan and manage meetings to achieve identified group/section goals by being able to:

- organise meetings; and
- conduct meetings on behalf of management.

Plan and manage conferences on behalf of management to achieve identified goals by being able to:

- plan conferences;
- organise conferences;
- promote conferences; and
- co-ordinate conference proceedings.

(f) Team

Manage the team to ensure team achievements reflect identified enterprise objectives by being able to:

- clarify the link between goals of the team and goals of the enterprise;
- plan and allocate work for the team;
- monitor team performance;
- evaluate achievements of team; and
- organise training for team.

Participate in staff selection to ensure team goals are achieved by being able to:

- identify requirements for new team positions;
- draft job vacancy advertisements;
- select staff; and
- employ staff.

(g) Business/financial

Manage payroll records for employee salaries and statutory record keeping purposes by being able to:

- prepare payroll data;
- process payment of wages and salaries; and
- administer PAYG salary records.

(h) Legal

Acquire and apply a working knowledge of the structures and methods of the relevant State or Territory legal system by being able to:

- understand and participate in, under supervision, the processes of major legal institutions;

- display an understanding of areas of law and legal procedures for resolving matters referred to the employee, subject to general and procedural supervision; and
- initiate routine legal procedures and documentation.

A.6 Level 5—Law graduate

A.6.1 Characteristics

This position requires the completion of a course of study which is recognised as an academic qualification for admission and a formal offer by the employer to the law graduate, the acceptance of that offer and registration and approval of all documentation required by the relevant governing bodies.

A.7 Level 6—Law clerk

A.7.1 General

- (a) Work is under limited guidance in line with a broad plan, budget or strategy. Responsibility and defined accountability for the management and output of the work of others and for a defined function or functions may be involved.
- (b) Competency at this level involves the self-directed development of knowledge with substantial depth across a number of areas and/or mastery of a specified area with a range of skills. Application is to major functions in either varied or highly specific contexts.
- (c) Competencies are normally used independently and are substantially non-routine. Significant judgment is required in planning, design, technical or supervisory functions related to products, services, operations or processes of the firm.
- (d) Specific clerical and administrative competencies do not automatically apply at this level or above. Legal competencies continue to apply at least in conjunction with the clerical and administrative competencies.
- (e) Employees will be graded at the level where the principal functions of their employment, as determined by the employer, require the exercise of skills at the level set out in the respective grade.
- (f) An indicative training and vocational educational level for this level is Associate Diploma at TAFE or tertiary level (or equivalent).

A.7.2 Legal

The employee will be able to display a practical understanding and application of the structures, methods and procedures of the relevant State or Territory legal system.