



DECISION

Fair Work Act 2009

s.158 - Application to vary or revoke a modern award

Australian Associated Press Pty Ltd

(AM2010/229)

Journalism

SENIOR DEPUTY PRESIDENT
HAMBERGER

SYDNEY, 10 NOVEMBER 2010

Correction of error in Modern Award

[1] Australian Associated Press (AAP) has applied for a variation to be made to the *Journalists Published Media Award 2010* (the Modern Award) pursuant to s.160 of the *Fair Work Act 2009* (the Act) to correct what it submits is an error. In particular it contends that the number of exempted positions at AAP should be 11 (in line with the *Journalists (Australian Associated Press) Award 1999* (the 1999 award), rather than six as currently provided for in the Modern Award.

[2] I am satisfied that the intention of the AIRC in making the Modern Award was to retain the status quo with regard to exemptions for senior staff of the relevant publications, as reflected in the various pre-reform awards. AAP was not represented during the consultation process that led to the making of the Modern Award. The parties that were involved, (including the Media, Entertainment & Arts Alliance (MEAA)) supported exempting six positions at AAP, and this was reflected in the Modern Award.

[3] I am satisfied that the figure of six positions was an error. Clause 5.4.1 of the 1999 award declares the following 11 positions as exempt from the award:

5.4.1(a) Editor.

5.4.1(b) National news editor.

5.4.1(c) Deputy national news editor.

5.4.1(d) Editor-in-charge **six positions**.

5.4.1(e) Northern Region News Editor.

5.4.1(f) Chief of Staff, Southern Region. (Emphasis added)

[4] It is likely that the parties overlooked that this clause provided for six Editor-in-charge positions to be exempt, leading to a miscalculation of the number of exempt positions. Instead the number of exempt positions at AAP was calculated on the basis that each role identified in the clause equated to one position. The figure of six positions currently reflected in the Modern Award is an error based on this miscalculation.

[5] While MEAA did not appear at the hearing, it has sent a letter indicating that it has no objection to the application to vary the award made by AAP.

[6] A determination will be made varying clause 4 of the Modern Award to alter the number of positions excluded from coverage at AAP from six to 11. I am satisfied that the circumstances justify the determination being given 1 January 2010 as the date of operation.

SENIOR DEPUTY PRESIDENT

Appearances:

Ms A DeBoos and *Ms A Singh* represented the applicant

Hearing details:

Sydney
2010-11-10 10 November

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