



STATEMENT AND DIRECTIONS

Fair Work Act 2009

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

Aged Care Award 2010

(AM2020/99)

Nurses Award 2020

(AM2021/63)

Social, Community, Home Care and Disability Services Industry Award 2010

(AM2021/65)

DEPUTY PRESIDENT ASBURY

DEPUTY PRESIDENT O'NEILL

COMMISSIONER BISSETT

BRISBANE, 10 FEBRUARY 2023

Applications to vary modern awards – work value – Aged Care Award 2010 – Nurses Award 2020 – Social, Community, Home Care and Disability Services Industry Award 2010 – Questions to parties – Directions – cross-examination of witnesses.

[1] In consolidated Directions issued on 13 January 2023,¹ the parties were required to file submissions and evidence in relation to matters including: the timing and phasing of the interim increases to modern award minimum wages; whether increases to modern award minimum wages applicable to direct care workers are necessary to achieve the modern awards and minimum wages objectives and provisional views in the *November 2022 Decision*;² and amendments to the *Fair Work Act 2009* relating to gender equality; and if relevant, consultation between interested parties in respect of increases to minimum wages for Head Chefs/Cooks and Recreational Activities Officers/Lifestyle Officers.

[2] The matters are listed for Hearing at **11.00 am AEDST on Monday 13 February 2023**. To facilitate the efficient conduct of the Hearing, in addition to the submissions filed, the Full Bench requests the parties address the following questions:

For the Commonwealth:

1. The basis and/or rationale for splitting the 15% interim increase into two instalments of 10% from 1 July 2023 and 5% from 1 July 2024;

For all parties:

2. If the Bench was to accept the Commonwealth's submission that it is not feasible for the increase to apply before 1 July 2023, the Bench's provisional view is that the interim increase should operate on and from a date other than 1 July 2023, having regard to the timing of any increase from the Annual Wage Review. The Bench's provisional view is that the interim increase should apply from 30 June. The parties' views on the provisional view are sought (noting the submissions filed as to the appropriate timing and phasing of the interim increase).
3. Whether the interim increase should be applied to all employees in Schedule E of the SCHADS Award, or whether it should exclude Home Care Employee Level 4 and/or Level 5, noting the implications for internal relativities in the Award if increases are not applied to supervisory workers who are not providing direct care.
4. In relation to the interim increase for "Head Chef/Cooks" how are the positions eligible for the increase identified within the Aged Care Award given the range of classification levels applicable to the roles?

For the Commonwealth and the Joint Employers:

5. Noting the Joint Employers submission that the interim increase for head chefs/cooks and RAOs/lifestyle officers is supported "on the basis that the increase is to be funded by the Commonwealth", has the Commonwealth agreed to fund the increase in relation to these employees?

[3] The Full Bench also notes that further witness statements have been filed for Professor Kathleen Eager (by the HSU) and Mr Grant Corderoy; Mr Johannes Brockhaus, Ms Michelle Jenkins and Mr James Shaw (by the Joint Employers).

[4] Parties seeking to cross-examine persons who have made witness statements for the Stage 2 proceedings are requested to advise by **3.00 pm AEDST today, Friday 10 February 2023** including an estimate of the time that will be required for such cross-examination.



DEPUTY PRESIDENT

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¹ Directions dated 13 January 2023.

² [\[2022\] FWCFB 200](#).