



STATEMENT

Fair Work Act 2009

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

Restaurant & Catering Industrial

(AM2021/58)

Restaurants

JUSTICE ROSS, PRESIDENT

MELBOURNE, 5 AUGUST 2022

Restaurant Industry Award 2020 – award flexibility – review of determinations varying Schedule AA— Classification Structure and Definitions and Schedule R—Award flexibility for COVID-19 Pandemic Recovery – conference to be listed.

[1] On 14 July 2021, the Commission issued a decision¹ varying the *Restaurant Industry Award 2020* to include two new schedules to assist employers and employees recover from the COVID-19 pandemic: *Schedule AA—Classification Structure and Definitions and Schedule R—Award flexibility for COVID-19 Pandemic Recovery*.²

[2] The Full Bench decided that the determination inserting Schedules AA and R into the Restaurant Award³ would come into operation on 11 August 2021,⁴ and that these Schedules would operate for a period of 12 months, until 10 August 2022.⁵

[3] To ensure that the rates in Schedule R were increased in line with the Commission’s 2021 AWR decision, the Commission also issued a second determination varying both the wage rates and the substitute allowance which came into operation on 1 November 2021.⁶

[4] The Full Bench agreed with the United Workers’ Union proposal in [\[2021\] FWCFCB 4149](#) for a review into the variation determination and determined that 9 months after the variation determination came into operation, a review would be conducted.⁷ The Full Bench decided that a conference would be called to consider the scope of the review:

¹ [\[2021\] FWCFCB 4149](#).

² [\[2021\] FWCFCB 4149](#) at [145].

³ [PR732377](#).

⁴ [\[2021\] FWCFCB 4149](#) at [148].

⁵ [\[2021\] FWCFCB 4149](#) at [146].

⁶ [PR732375](#), and [PR732924](#) (correction to PR732375).

⁷ [\[2021\] FWCFCB 4149](#) at [152].

‘[153] The review will consider, among other things, whether the various concerns expressed by UWU members about the proposed variations have come to pass and the extent of utilisation of the various elements of the new Schedules. In relation to the last point, we would expect RCI to file evidence from the witnesses who have given evidence on behalf of RCI in these proceedings as to their utilisation of various elements of the new Schedules.’

[5] As the aforementioned nine months have now elapsed since our decision, and the Full Bench considers it suitable to list this matter for conference, with the expectation that the UWU and RCI will address the considerations referred to above, to the extent they are now material.

[6] The matter will be listed for conference on at 10.00am (AEST) on Thursday 25 August 2022 before Deputy President Clancy. A notice of listing will be issued together with this statement.

PRESIDENT

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<MA000119 PR742543>