



STATEMENT

Fair Work Act 2009

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

Aged Care Award 2010

(AM2020/99); AM2021/63 and AM2021/65)

Nurses Award 2020

(AM2021/63)

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

(AM2021/65)

Aged care industry

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT ASBURY
COMMISSIONER O'NEILL

MELBOURNE, 9 JUNE 2022

Applications to vary modern awards – work value – Aged Care Award 2010 – Nurses Award 2020 – Social, Community, Home Care and Disability Services Industry Award 2010 – Background Documents published.

[1] On 12 May 2022, we issued a [statement](#) setting out the material the Commission proposed to publish in this matter. On 6 June 2022, we issued further amended [directions](#).

[2] The Commission has prepared the following documents that will be published with this statement:

- Background Document 1 – The Applications
- Background Document 2 – Award Histories

[3] Background Document 1 sets out, amongst other things, a summary of the applications, the procedural history, the legislative framework relevant to the applications and the main contentions of the principal parties.

[4] Background Document 2 sets out the history of wages and classifications in the Aged Care Award, the Nurses Award and the SCHADS Award.

[5] The background documents pose a number of questions to the parties. Parties should include their short, written answers in response to the questions set out in the background documents in their submissions to be filed by **4pm on Friday 22 July 2022**.

[6] Background documents on the residential and home aged care sector and the Royal Commission into Aged Care Quality and Safety will be published late next week.

Provisional views

[7] Based on the material set out in Background Documents 1 and 2, we propose to express some *provisional* views. Parties can address the *provisional* views in their submissions to be filed by **4pm on Friday 22 July 2022**. Our *provisional* views are:

1. Based on the submissions of the Unions and the Joint Employers, the relevant wage rates in the *Aged Care Award 2010*, the *Nurses Award 2020* and the *Social, Community, Home Care and Disability Services Industry Award 2010* have not been properly fixed.
2. It is not necessary for us to form a view about why the rates have not been properly fixed.
3. Our task is to determine whether a variation of the relevant modern award rates of pay is justified by ‘work value reasons’ (and is necessary to achieve the modern awards objective), being reasons related to any of s.157(2A)(a)-(c) the nature of the employees’ work, the level of skill or responsibility involved in doing the work and the conditions under which the work is done.

Digital Hearing Book

[8] The Commission has prepared an *amended* Digital Hearing Book (DHB) to assist interested parties. The DHB combines and indexes all material filed up to 7 June 2022, including amended witness statements. Parties should refer to the *amended* DHB from this point forwards.

[9] The Full Bench will be using the DHB during the final oral hearings beginning on 24 August 2022. When referencing page numbers in the DHB parties should refer to the red number located at the bottom centre of each page.

Research reference list

[10] The Commission has also prepared a Research Reference List (RRL) setting out all of the research materials and data sources referred to in the parties’ submissions. The RRL also includes a list of cases referred to by the parties in their submissions. We propose to have regard to the materials set out in the RRL in our consideration of the applications.

[11] Parties can comment on the DHB and the RRL in their written submissions due on Friday 22 July 2022.

Summary of lay witness evidence

[12] The lay witness evidence filed by the Unions was heard by a single member of the Full Bench. A draft summary of the lay witness evidence was sent to the parties on Friday 3 June 2022 with comments due to be filed by 4.00pm on Wednesday 8 June 2022. The HSU sought an extension to this deadline to COB on Friday 10 June 2022. The extension was granted for all parties. A final version of the summary of the lay witness report will be published next week.

PRESIDENT

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