

**FAIR WORK AUSTRALIA**

**DRAFT DETERMINATION**

*Fair Work Act 2009*

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

**Application by Australian Municipal, Administrative, Clerical and Services Union**

(AM2011/53)

**SOCIAL, COMMUNITY, HOME CARE AND DISABILITY SERVICES INDUSTRY AWARD 2010**

[MA000100]

JUSTICE GIUDICE, PRESIDENT  
VICE PRESIDENT WATSON  
SENIOR DEPUTY PRESIDENT  
ACTON

COMMISSIONER HARRISON                      MELBOURNE, [DATE]  
COMMISSIONER CARGILL

A. Pursuant to s.157 of the *Fair Work Act 2009* the *Social, Home Care and Disability Services Industry Award 2011* is varied as follows:

1. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of clause A2.3.
2. By deleting clause A2.4 and inserting a new clause A2.4 as follows:

*The difference between the minimum wage for the classification in the Family Day Care and Home Care classification streams in this award and the minimum wage in clause A.2.3 is referred to as the transitional amount.*

3. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of the first sentence in clause A2.5.
4. By deleting the words “*These provisions*” in clause A.2.7 and inserting in lieu thereof the words “*Clauses A2.4 and A2.5*”
5. By inserting the following additional clauses immediately after clause A2.9:

A.2.8                      *Prior to the first full pay period on or after 1 July 2012 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-*

*based transitional instrument for the classification concerned to employees classified in the Social and Community Services and Crisis Accommodation classification streams in this award.*

A.2.9 *From the first full pay period on or after 1 July 2012, the employer must pay an employee who is classified in either the Social and Community Services or Crisis Accommodation classification streams in this award no less than either:*

a. *the minimum wage for the relevant classification in this award; or*

b. *the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned*

*whichever is higher.*

A.2.10 *The employer must apply any increase in minimum wages in this award resulting from an annual wage review to the amounts in clause A2.9.*

A.2.11 *Clauses A.9 and A.10 cease to operate from the beginning of the first full pay period on or after 1 July 2014.*

6. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of clause A3.3.

7. By deleting clause A3.4 and inserting a new clause A3.4 as follows:

*The difference between the minimum wage for the classification in the Family Day Care and Home Care classification streams in this award and the minimum wage in clause A3.3 is referred to as the transitional amount.*

8. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of the first sentence in clause A3.5.

9. By deleting the words “*These provisions*” in clause A.3.7 and inserting in lieu thereof the words “*Clauses A3.4 – A3.6 inclusive*”

10. By inserting the following additional clauses immediately after clause A3.7:

A.3.8 *Prior to the first full pay period on or after 1 July 2012 the employer must pay no less than the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned to employees classified in the Social and Community Services and Crisis Accommodation classification streams in this award.*

A.3.9 *From the first full pay period on or after 1 July 2012, the employer must pay an employee who is classified in either the Social and Community Services or Crisis Accommodation classification streams in this award no less than either:*

- a. *the minimum wage for the relevant classification in this award; or*
- b. *the minimum wage in the relevant transitional minimum wage instrument and/or award-based transitional instrument for the classification concerned*

*whichever is higher.*

A.3.10 *The employer must apply any increase in minimum wages in this award resulting from an annual wage review to the amounts in clause A3.9.*

A.3.11 *Clause A3.9 ceases to operate from the beginning of the first full pay period on or after 1 July 2014.*

11. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of the first sentence in clause A5.2.

12. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of the first sentence in clause A5.4.

13. By inserting the following additional clauses immediately after clause A5.5:

A.5.6 *Prior to the first full pay period on or after 1 July 2012 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument for the classification concerned to employees classified in the Social and Community Services and Crisis Accommodation classification streams in this award.*

A.5.7 *The difference between the loading or penalty in this award and the rate in clause A.5.6 is referred to as the transitional percentage.*

A.5.8 *From the following dates the employer must pay no less than the loading or penalty in this award minus the specified proportion of the transitional percentage to employees classified in the Social and Community Services and Crisis Accommodation classification streams in this award:*

*First full pay period on or after*

<i>1 July 2012</i>	<i>40%</i>
<i>1 July 2013</i>	<i>20%</i>

A.5.9 *These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.*

14. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of the first sentence in clause A6.2.

15. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of the first sentence in clause A6.6.

16. By inserting the following additional clauses immediately after clause A6.5:

A.6.6 *Prior to the first full pay period on or after 1 July 2012 the employer must pay no less than the loading or penalty in the relevant transitional minimum wage instrument or award-based transitional instrument for the classification concerned to employees classified in the Social and Community Services and Crisis Accommodation classification streams in this award.*

A.6.7 *The difference between the loading or penalty in this award and the rate in clause A.6.6 is referred to as the transitional percentage.*

A.6.8 *From the following dates the employer must pay no less than the loading or penalty in this award minus the specified proportion of the transitional percentage to employees classified in the Social and Community Services and Crisis Accommodation classification streams in this award:*

*First full pay period on or after*

*1 July 2012                      40%*

*1 July 2013                      20%*

A.6.9 *These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.*

17. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of the first sentence in clause A7.2.

18. By adding the words “*to employees classified in the Family Day Care and Home Care classification streams in this award*” to the end of the first sentence in clause A7.3.

19. By inserting the following additional clauses immediately after clause A.7.4:

A.7.5 *Prior to the first full pay period on or after 1 July 2012 the employer need not pay the loading or penalty in this award to employees classified in the Social and Community Services and Crisis Accommodation classification streams in this award.*

A.7.6 *From the following dates the employer must pay no less than the following percentage of the loading or penalty in this award to employees classified in the Social and Community Services and Crisis Accommodation classification streams in this award:*

*First full pay period on or after*

*1 July 2012* 40%

*1 July 2013* 20%

*A.7.6 These provisions cease to operate from the beginning of the first full pay period on or after 1 July 2014.*

B. This determination comes into operation on the first full pay period commencing on or after [date].

PRESIDENT