



STATEMENT AND DIRECTIONS

Fair Work Act 2009

s.160—Application to vary a modern award to remove ambiguity or uncertainty or correct error

Application by Australian Payroll Association

(AM2021/66)

Retail industry

COMMISSIONER BISSETT

MELBOURNE, 10 AUGUST 2021

Application to vary a modern award to remove ambiguity or uncertainty or correct error.

[1] On 9 July 2021 the Commission issued a statement in relation to the *General Retail Industry Award 2020 (GRI Award)* arising from a matter raised by the Australian Payroll Association in relation to minimum engagement/payments to casual employees pursuant to clause 11 of the GRI Award. A mention was held with interested parties to the GRI Award on 9 August 2021.

[2] A number of issues arose at and from that mention:

- (i) Does clause 11 (and cl 11.4 in particular) of the GRI Award contain any ambiguity or uncertainty or an error which may be resolved by a variation of the GRI Award pursuant to s.160 of the *Fair Work Act 2009* (FW Act)?
- (ii) If clause 11 has changed from the provisions of the 2010 Award, how did the variation arise and was it intended?
- (iii) If the answer to (i) is yes, what is the ambiguity, uncertainty or error, how does it arise and how should the clause be varied to resolve the issue?
- (iv) Does the Australian Payroll Association have standing, in accordance with s.160(2) of the FW Act to make an application under s.160 of the FW Act. If not, should the Commission vary the GRI Award on its own motion?

Directions

[3] In order to resolve these (and any other relevant) question the following directions are issued for the filing of submissions:

1. Submissions responsive to the matters outlined above (and any other relevant matters) are to be filed with the chambers of Commissioner Bissett by no later than **4.00pm Wednesday 1 September 2021**. All submissions received will be posted to the website.
2. Any submissions in reply to those filed in accordance with item 1 are to be filed with the chambers of Commissioner Bissett by **4.00pm Wednesday 15 September 2021**.
3. On receipt of all submissions a conference of interested parties will be convened to further consider the matter.

[4] All material filed in accordance with these submissions should be sent electronically to chambers.bissett.c@fwc.gov.au.



COMMISSIONER

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