

FWC Bulletin

3 August 2023 Volume 8/23 with selected Decision Summaries for the month ending Monday, 31 July 2023.

Contents

Expansion of Online Lodgment Service	2
Registered organisation website information updated	3
Updated agreement variation forms and new tool available	4
Decisions of the Fair Work Commission.....	5
Other Fair Work Commission decisions of note	10
Subscription Options.....	18
Websites of Interest	18
Fair Work Commission Addresses	21

Expansion of Online Lodgment Service

06 Jul 2023

We have expanded our [Online Lodgment Service \(OLS\)](#) to include some individual dispute cases. This is part of our ongoing work to improve our services through digital transformation. The expanded list of forms means you can now lodge more forms online. This includes lodging an:

- Unfair dismissal application (Form F2) by completing the online form
- General protection application (Form F8 and Form F8C) by uploading a completed form
- Unlawful termination application (Form F9) by uploading a completed form
- Agreement approval application (Form F16) by completing the online form (previously launched in June 2021).

The OLS has standard features to help you including the ability to:

- save your application and return to it later
- view your history of submitted applications, and
- review and download previously submitted applications.

Our online unfair dismissal form has been developed and refined through usability testing. The result is a form with features to help you when applying. This includes an autofill function to save you time, and alerts when you miss important information. You can also pay the application fee or apply for a fee waiver when you lodge.

We encourage you to lodge unfair dismissal applications online through the OLS. This will help you complete the form correctly, which makes it easier for us to process your application.

To lodge online just click the [online lodgment service](#) link on the relevant form page. You will be prompted to set-up an account before you can get started. Once you lodge a complete application you will receive a confirmation email. A link to a survey about the OLS will be included in the email. Your feedback will help us improve our services to better meet your needs.

The expansion of the OLS follows the release of our [Preparing for an unfair dismissal conciliation online learning module](#). These are examples of our broader systems-based approach to improving access justice through digital first transformation. We utilise modern best practice techniques like plain language, behavioural insights and user experience design to help us meet the evolving needs of our users.

To keep up to date with our digital transformation activities, [subscribe to our announcements](#) and follow us on [LinkedIn](#). If you have any feedback, please [contact us](#).

Registered organisation website information updated

10 Jul 2023

We have redesigned the [Registered organisations section](#) of our website. This work supports the transfer of the registered organisation functions to our General Manager following the commencement of the *Fair Work Amendment (Secure Jobs Better Pay) Act 2022* on March 6 2023.

The aim is to provide you with a single location for all registered organisation resources. This includes information from the former Registered Organisation Commission website. We have maintained key user journeys and information, but it is not a like for like replacement.

We have undertaken a significant redesign and rebuild of the content and applied modern best practice principles for website design, user experience and plain language. The result is a more consistent experience across our website. It continues our commitment to providing all our users with the right information, at the right time and in the right format.

What has changed

The navigation structure in the Registered organisations menu on the website has changed. We have added new navigation items to incorporate the new functions that commenced 6 March 2023. Our regular users will find the navigation familiar. However, there are some tweaks to better align information and provide you with a more seamless experience.

In applying best practice principles, we have ensured the website supports modern user behaviour and is mobile-ready. This has seen a reduction in PDF downloads and an increase in webpage content. The result is information that is consistent with our broader website and more:

- accessible
- findable
- readable
- useable.

We have left some information on the previous website platform – regorgs.fwc.gov.au. This includes some education material, the compliance calculator and the documents relating to individual organisations. We have linked to this content from the webpages throughout the registered organisation section. This will help with the transition process. It also provides us an opportunity for us to take your feedback and explore further improvements.

Next steps

We are developing a new interface for registered organisations documents. All existing documents will be integrated with the new interface. This will replace the existing Find a registered organisation feature and provide you with an enhanced search experience. Our aim is to release this product in 2024.

We encourage you to provide feedback so we can improve your experience with us. Our website is designed for you. At the bottom of every page is a feedback form. You can also [contact us](#) if you have any suggestions on improvements.

We recommend you [subscribe to updates](#) and follow us on [LinkedIn](#) to stay up to date.

Updated agreement variation forms and new tool available

13 Jul 2023

We have updated the forms used to apply for approval to change an agreement. This includes additional versions of the employer's declaration in support of the variation application form. You now have a dedicated form to suit your circumstances. We have also released a new tool to help you select the correct form.

Using the correct form

It is important that you fill-in and lodge the correct form for your circumstances. A Commission Member may not accept an incorrect form when considering your application. This may result in delays. We have a number of tools available to help you.

Updated forms

The *Fair Work Amendment (Secure Jobs Better Pay) Act 2022* (Secure Jobs Better Pay Act) has changed the way employers and employees bargain and make agreements. There are now different tests that apply depending on your circumstances.

We have developed 3 versions of the [Form F23A – employers declaration to vary an agreement](#) to align with the different tests. To reflect these changes we have also updated the:

- [Form F23 - Apply for approval to change an agreement](#)
- [Form F23B - Union declaration for variation of an enterprise agreement.](#)

New tool to help you select the correct form

We have developed a new tool to help you [Select the correct Form F23A](#) for your circumstances. You will be asked to answer 2 simple questions. The answers you provide will determine which form is right for you. The tool works in the same way as the [Select your Form F17 tool](#) and is part of our ongoing work to assist you in navigating the new provisions.

Support and tools

We have developed a suite of tools and resources to help you comply with the legislative tests that apply to agreement making. This continues our implementation of the Secure Jobs Better Pay Act provisions. These resources are available throughout our website and include the:

- [Understand the tests that apply to agreements tool](#) to see which tests will apply to your agreement
- [Select your Form F17 tool](#) to help you pick the right form for your circumstances
- updated [Date calculator for single enterprise agreement](#)
- updated [Create the NERR tool](#) to align with the amended regulations
- updated online agreement forms so parties can continue to lodge their applications online from 6 June using the online Form F16 – Application for approval of an enterprise agreement (other than a greenfields agreement) and attach the paper-based Form F17
- pre-approval checklist to reflect the new legislative requirements. This checklist is completed by Commission staff then given to the Commission Member who reviews the application before deciding whether to approve the agreement [See [pre-approval checklist \(doc\)](#)].

Decisions of the Fair Work Commission

The summaries of decisions contained in this Bulletin are not a substitute for the published reasons for the Commission's decisions nor are they to be used in any later consideration of the Commission's reasons.

Summaries of selected decisions signed and filed during the month ending Monday, 31 July 2023.

- 1 CONDITIONS OF EMPLOYMENT – wages – equal remuneration order – employment status – s.302 Fair Work Act 2009 – Full Bench – applicant employed as full-time chef for respondent – applicant lodged equal remuneration claim on 15 March 2023 – applicant resigned from position on 6 March 2023 prior to application for equal remuneration order – applicant sought back payment for difference in wages, holiday allowance, emotional distress and unpaid overtime – applicant commenced as a casual employee on 26 April 2021 – in December 2021 all casual chefs except for applicant were offered and accepted full-time Chef de Partie roles – applicant continued as a casual employee until May 2022 – applicant claimed she did the same work as the full-time male chefs – applicant submitted that she worked longer hours than was logged on her roster – applicant offered and accepted first full-time Chef de Partie employment contract in May 2022 that included a probationary period – applicant signed a new full-time employment contract in December 2022 for the next six months – applicant required to complete a second probationary period – Full Bench noted recent amendments to s.302 – Commission can now make equal remuneration order on its own initiative – Commission can make comparisons of different occupations and industries to determine if work is undervalued – Commission not required to find discrimination on the basis of gender for work to be undervalued and is not limited to comparing similar industries and occupations – now mandatory that Commission make an equal remuneration order if satisfied that, for employee(s) to whom order would apply, there is not equal remuneration for work of equal or comparable value – found that all work done by the applicant and the four chefs was the same – found that there was gender inequality regarding rates of pay – Full Bench rejected respondent's submission that other chefs were paid higher salaries as a reward or retention strategy – Full Bench observed s.302 does not require rates of pay to have been established for gender-discriminatory reason to make an order – whether to make an order considered – critical question comprising two elements identified – first s.302(5) infers a requirement that application has been validly made under s.302(2) – second Commission must be satisfied that *for the employees to whom the order will apply* there is not equal remuneration for work of equal or comparable value – found that applicant was not an employee at time she applied for equal remuneration order – held that a s.302 applicant must be current employee to be eligible for an equal remuneration order – observed Commission would not make order of its own initiative, consistent with Act's gender equality objective, as applicant no longer employed by respondent – held that equal remuneration orders are to be made for equal pay for an employee into the future only – held that Commission had no power to make equal

remuneration order for past underpayments – application dismissed.

Sabbatini v Peter Roland Group P/L

C2023/1370

Hatcher J

O'Neil DP

Dr Leonora Risse

Sydney

[\[2023\] FWCFB 127](#)

17 July 2023

- 2** ENTERPRISE AGREEMENTS – ambiguity or uncertainty – standing – ss.217, 604 Fair Work Act 2009 – appeal – Full Bench – appellant (Qube) appealed Colman DP's first instance finding it was not covered by agreements it sought to vary – at first instance Qube sought to vary 35 enterprise agreements to remove an ambiguity or uncertainty – some of the enterprise agreements covering Qube had been approved in 2012/2013 (2012/13 Agreements) – 2012/13 Agreements ceased operation when replaced in 2016 and no employees remained covered by 2012/13 Agreements – consequently 2012/13 Agreements no longer applied to Qube – other agreements subject to s.217 application approved in 2016 (2016 Agreements) – 2016 Agreements replaced in 2021 and ceased operation – consequently 2016 Agreements no longer applied to Qube – Qube applied to remove ambiguity or uncertainty it said existed in 2012/13 Agreements and 2016 Agreements – alleged ambiguity or uncertainty concerned provisions allowing Qube to recover gap payments if employee earned more than minimum fortnightly salary – Qube contended it could recover gap payments from any subsequent pay period – Construction, Forestry, Maritime, Mining and Energy Union (CFMMEU) contended gap payments only recoverable in pay period immediately following pay period in which gap payment made – CFMMEU commenced proceeding in Federal Court seeking declaration that Qube contravened s.50 and underpaid some one thousand employees over six years – Qube suggested competing interpretations showed clauses ambiguous or uncertain – sought retrospective variation to 2012/13 Agreements and 2016 Agreements to remove uncertainty – removing uncertainty would nullify Court proceedings – CFMMEU suggested variation application incompetent when lodged as Qube was not an employer covered by 2012/13 Agreements or 2016 Agreements – contended Qube did not have standing – at first instance Colman DP dismissed application on basis s.217 application can only be lodged by employer if covered by agreement at time it made application – consequently found Qube did not have standing – Qube appealed Deputy President's finding it was not covered by 2012/13 Agreements or 2016 Agreements for purpose of s.217 – Full Bench noted standing provisions of s.217 not previously subject of Full Bench consideration – permission to appeal granted – consideration of standing under s.217 – observed s.217 enables Commission to vary an enterprise agreement to remove an ambiguity or uncertainty on application by employers, employees and registered organisations covered by the agreement – whether "covered by" includes employer once covered but no longer covered by agreement – observed two potential interpretations, one that only presently covered persons can apply, or two that s.217 is agnostic to temporal aspect of coverage – Full Bench noted meaning of "covered by" to be ascertained by reference to text, context and purpose of s.217 – held relevant temporal context is the time of making the application – Full Bench observed Act establishes scheme under
-

which enterprise agreements are approved, commence and then cease to operate – observed this context suggests variation and termination provisions (subject to express limitations) are applicable to approved agreements in operation, not agreements that have ceased operation – Full Bench summarised Act as regulating 'the birth, life and death of an enterprise agreement but not its afterlife (save for ensuring that once dead can never live again)' – noted a s.217 application by a person not covered by the agreement about an agreement that is no longer in operation and cannot operate again concerns the afterlife of an agreement – held context, purpose and object of statutory scheme did not support Qube's contention it had standing to vary 2012/13 Agreements or 2016 Agreements – Full Bench observed 18 other references to "covered by the agreement" throughout Division 7 of Part 2-4 plainly connote present coverage rather than past coverage – noted words and phrases used consistently in a statute should be given the same meaning consistently and if a different meaning was intended then different words or a different phrase could have been used – held the 3 uses of "covered by the agreement" in s.217 should be given same meaning as the 18 other instances of phrase in Division 7 of Part 2-4 – therefore s.217 confined to present coverage – Full Bench rejected Qube's other contentions – held on proper construction of s.217(1)(a) "covered by the agreement" meant presently covered – held Deputy President's conclusion correct – appeal dismissed.

Appeal by Qube Ports P/L t/a Qube Ports against decision of Deputy President Colman of 1 March 2023 [[\[2023\] FWC 508](#)] Re: Construction, Forestry, Maritime, Mining and Energy Union – The Maritime Union of Australia Division

C2023/1515
Catanzariti VP
Gostencnik DP
Clancy DP

Sydney

[\[2023\] FWC FB 102](#)
5 July 2023

- 3** CASE PROCEDURES – costs – respondent – ss.400A, 604, 611 Fair Work Act 2009 – appeal – Full Bench – appellant sought permission to appeal against Commission decision refusing to award costs against respondent in costs application arising from originating decision under s.387 FW Act – at first instance Commission found appellant's claim for unfair dismissal was established and ordered compensation – appellant advanced costs application under ss.400A and 611 – Commission found in relation to s.611(2)(a) that respondent's response to application was not made vexatiously or without reasonable cause – not satisfied in relation to s.611(b) that it should have been reasonably apparent to the respondent that the application had no reasonable prospects of success – appellant appealed findings made under s.611(2) only – appellant submitted that in not awarding costs pursuant to s.611(2)(a) and/or (b) the Commissioner misunderstood the task before him, misapplied the relevant tests and took into account irrelevant factors – respondent submitted that the Commissioner correctly applied tests and appropriate authorities and correctly took into account the respondent's attempts to settle as a relevant factor in exercising discretion whether to award costs – further submitted that at the time of filing a response, allegations of assault in the workplace had been made against the appellant and the appellant had been arrested and charged in relation to those alleged assaults – Full Bench considered whether an arguable case of appealable error was

demonstrated and whether public interest was enlivened [*GlaxoSmithKline*] – satisfied appeal was in the public interest because of issues of general application concerning the proper approach to the application of provisions of s.611(2) to respondents – appeal granted – Full Bench noted that decisions concerning principles of interpretation and application of s.611(2)(a) and (b) [*Church*] and [*Baker*] dealt with cost applications against appellants in relation to costs of appeal proceedings, not cost applications against respondents to proceedings – noted that tests under s.611(2) for respondents are relevantly the same as the tests applied to applicants, being whether on the facts apparent to the respondent at the time the application was made (a) the respondent responded vexatiously or without reasonable cause (s.611(2)(a)) and (b) there was no substantial prospect of successfully defending the application (s.611(2)(b)) – noted that for respondents the notions of reasonable cause and of successfully defending an applications are less clear than for applicants – noted that a respondent may attempt to settle a matter but otherwise has no choice but to defend against the remedy sought – Full Bench satisfied that Commission applied an orthodox approach to the application of s.611(2) save for consideration of events occurring after the response was lodged – satisfied that Commission had correctly considered the matter, correctly determined the prospects of success at the time of filing the response and correctly found at that time that the respondent should not be held to have no reasonable prospects of success – Full Bench noted that dismissal of criminal charges weakened respondent’s defence of appellant’s application but erroneous consideration of events subsequent to the response did not affect the outcome of the application – Full Bench found the respondent’s response was not made without reasonable cause and at the time of the response had some reasonable prospect of success – found it was unnecessary for the Commissioner to consider whether discretion to order costs would be exercised in the circumstances – considered the Commissioner was ultimately correct in his conclusions regarding the application of provisions of s.611(2) – appeal dismissed.

Appeal by Wood against decision of Cambridge C of 9 February 2023 [[\[2023\] FWC 290](#)] Re: Amigoss Preschool and Long Day Care Co-Operative Ltd

C2023/1072
Cross DP
Easton DP
McKinnon C

Sydney

[\[2023\] FWCFB 71](#)
10 July 2023

-
- 4** TERMINATION OF EMPLOYMENT – extension of time – date dismissal took effect – s.394 Fair Work Act 2009 – unfair dismissal application lodged outside statutory timeframe – applicant worked as security officer – in April 2023 applicant was arrested by police, charged, and remanded in custody for 23 days – applicant had no access to mobile phone, internet, and was only able to communicate with approval of remand facility – custody inflicted stress on applicant and he started taking anti-depressant medications – applicant missed rostered shifts while in remand – applicant made requests that respondent be notified of applicant’s inability to attend shifts but his requests were not fulfilled – respondent attempted to contact applicant by phone multiple times seeking explanations why he had not attended shifts – respondent sent letter to applicant indicating that if he did not contact then applicant would have repudiated contract –
-

respondent sent letter by email to applicant alerting applicant that he repudiated contract and respondent accepted repudiation – charges were dropped and applicant was released 26 April – applicant contacted respondent multiple times from early May to explain situation and to resolve the matter through negotiations – respondent did not negotiate with applicant and reiterated that contract was repudiated – applicant submitted that application was not filed out of time and that the date dismissal took effect was the day when he first read the letter alerting him of dismissal – respondent submitted that applicant was not dismissed, and in the alternative that date dismissal took effect should be day applicant received letter notifying them of dismissal – Commission affirmed mere receipt of an email may not constitute reasonable opportunity to become aware of dismissal [*Ayub*] – Commission determined that applicant had no ability to view respondent’s communications and he was only able to view them after release – Commission determined that date dismissal took effect should be the day after which applicant was released since it was only then he had ability to view the letter – applicant submitted his circumstances were exceptional considering that he was medically unwell after his release and that applicant reacted diligently after becoming aware of dismissal to contest it and to pursue Commission application – applicant submitted whole of the circumstances were exceptional to warrant grant of extension of time – respondent submitted applicant did not take reasonable steps to alert respondent of his circumstances while in remand or immediately after release respondent submitted that circumstances were not exceptional, applicant’s assertions that they were medically unwell were not substantiated by evidence, and applicant’s medical situation did not render him unfit to file Commission application – Commission affirmed exceptional circumstances includes combination of factors which viewed together can be seen as producing situation that is out of the ordinary [*Nulty*] – Commission reviewed applicant’s action after release and before application was filed – Commission found that spending time in remand, the effect of remand on applicant’s health were acceptable reasons for the delay and weigh in favour of finding exceptional circumstances – Commission found applicant’s attempts to negotiate with respondent and to exhaust all options before commencing Commission matter demonstrated applicant’s sincere attempts to resolve the dispute and also weighed in favour of granting extension – Commission found other considerations were neutral – Commission observed the delay was only 1 day – found circumstances favoured the grant of an extension and the grant would not prejudice respondent – satisfied exceptional circumstances existed – Commission added that even if the date dismissal took effect was the day respondent sent notice of termination to applicant, and so delay would have been 10 days, the Commission would still have found the circumstances exceptional to warrant grant of extension – extension of time granted.

Qureshi v Spotless Services Australia

U2023/4369
Anderson DP

Adelaide

[\[2023\] FWC 1613](#)
4 July 2023

Other Fair Work Commission decisions of note

Bunnings Group Limited

ENTERPRISE AGREEMENTS – better off overall test – s.185 Fair Work Act 2009 – Full Bench – application for approval of Bunnings Retail Enterprise Agreement 2023 (Agreement) – application lodged on 19 June 2023 – 5.75% increase to minimum wage awarded in Annual Wage Review 2022-23 decision on 2 June 2023 – Retail and Fast Food Workers’ Union Incorporated (RFFWU Inc) opposed approval of Agreement on multiple bases, including that the Better Off Overall Test (BOOT) should be applied by reference to, or should at least take into account, post-1 July 2023 rates in the Award because they are ‘known’ as at the test time – Full Bench considered proper construction of s.193(1) of the FW Act – considered legislative scheme, including text of ss.193(1) and 206, Explanatory Memorandum for the *Fair Work Bill 2008*, *Newlands Coal P/L v CFMEU, Loaded Rates Agreements, ANMF v Domain Aged Care (QLD) P/L, CFMEU & Ors v OS ACPM P/L and OS MCAP P/L* – Full Bench found that the “hypothetical comparison required by s.193(1) only requires... that employees be better off overall at the test time, and not at some later date when different award terms might be applicable” – found that RFFWU Inc submission invited a speculative exercise detached from the text of s.193(1) and inconsistent with the simple ‘on the papers’ comparative exercise as at the test time that the legislature intended – considered remaining requirements, including benefits and detriments and undertakings – satisfied approval requirements in ss. 186 and 187 were met – Agreement approved.

AG2023/1996
Hatcher J
Easton DP
Matheson C

Perth

[\[2023\] FWCFB 125](#)
14 July 2023

Suncoast Scaffold P/L atf The Warren Family Trust

ENTERPRISE AGREEMENTS – default period – better off overall – Sch. 3 Item 20A(4) Fair Work (Transitional Provisions and Consequential Amendments) Act 2009 – Full Bench – application to extend the default period for a collective agreement (the Agreement) which is a transitional instrument under the Transitional Act – applicant sought to extend the default period to 31 March 2027 – the Agreement came into effect in 2009 – 12 of the applicant’s employees covered by the Agreement are award covered employees – nine covered by *Building and Construction General On-Site Award 2020* (Building Award) and three by *Clerks-Private Sector Award 2020* – whether it is likely that the award covered employees under the Agreement, viewed as a group, would be better off overall if the instrument applied to them than if modern award applied to those employees – Commission noted two important differences between better off overall test in the FW Act and the Transitional Act – observed Transitional Act requires award covered employees be viewed as a group in assessing whether they are better off overall under the Agreement – further noted Transitional Act is only concerned with the likelihood of award covered employees being better off overall under a transitional instrument – a broad evaluative judgment is required based upon overall comparison of terms of a transitional instrument – Commission must also be satisfied it is otherwise appropriate in the circumstances for default period in the Agreement to be extended – applicant contented its award covered employees would be better off overall if the Agreement continued to apply to than if relevant modern award applied – applicant also submitted that its employees are satisfied with the current agreement – a 50-hour working week constitutes as an appropriate model for applying the better off overall test in the building and construction industry [*Allstyle Concrete*] – comparison of a 50-hour working week between the Agreement and the corresponding Building Award classification showed employees covered under the Agreement would be worse off – Commission held it was not satisfied that award covered employees, viewed as a group, would likely to be better off overall if the Agreement continued to apply to them rather than if the relevant modern award or awards applied – Commission noted 9 employees covered

by Building Award would, based on the analysis, be likely worse off if they performed standard building and construction industry working pattern – Commission further observed other disadvantages would likely arise in numerous other scenarios given identified differences in conditions – Commission also noted that there was no independent evidence of the views of the applicant’s employees in relation to the Agreement – held not required to extend default period – application dismissed.

AG2023/790

Hatcher J
Wright DP
Roberts DP

Sydney

[\[2023\] FWCFB 105](#)

16 June 2023

Appeal by FreshFood Management Services P/L against decision of McKenna C of 22 December 2022 [[\[2022\] FWC 3320](#)] Re: "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union (AMWU)

ENTERPRISE AGREEMENTS – dispute about matter arising under agreement – arbitration – ss. 604, 739 Fair Work Act 2009 – appeal – Full Bench – matter at first instance arose from dispute over application of leave entitlements under enterprise agreement – employer appealed Commission’s interpretation of the disputed terms, while unions appealed Commission’s exercise of discretion not to make orders directing employer to identify and rectify any underpayment – Full Bench considered principles for interpretation of enterprise agreements – ordinary meaning of the words, read in context [*Berri*] – context includes other terms of agreement, prior agreements, statutory framework, and surrounding circumstances such historical disputes and practices – observed surrounding circumstances relevant in deciding whether any ambiguity in a term, but cautioned against weighing contextual factors (including historical practices said to represent ‘common understanding’) too heavily as to displace the plain meaning of disputed terms [*Australian Rail*] – affirmed primacy of text in task of interpretation – found Commission properly applied this approach – Full Bench considered whether the Commission’s exercise of powers led to appropriate conclusion to the arbitration – appeal against discretion must identify some error made in exercise of power [*House*] – considered proper exercise of arbitral powers – power conferred by contract or statute and dependant on agreement of parties [*CFMEU*] – founded on consent rather than coercion [*Falcon Mining*] – arbitration at first instance based on consent as pursuant to enterprise agreement [*Airservices Australia*] – while Commission has power to make binding findings of fact within arbitrated dispute resolution, only courts can impose penalties and make declarations of contravention of the Act [*Airservices Australia*] – found proper application of arbitration – all appeals dismissed.

C2023/95 and Ors

Asbury VP
Cross DP
Hampton DP

Brisbane

[\[2023\] FWCFB 97](#)

29 June 2023

Lonnie v WA Council on Addictions

TERMINATION OF EMPLOYMENT – misconduct – employer policies – alleged domestic violence – s.394 Fair Work Act 2009 – applicant employed as General Manager of Residential Services – applicant dismissed for serious breaches of code of conduct – allegation of domestic violence against co-worker with whom applicant was in a relationship – further allegation applicant inappropriately used respondent’s phone and laptop to subject co-worker to abuse – first allegation of domestic violence involved conduct that mostly occurred outside working hours – whether valid reason – respondent required to demonstrate it had more than a mere reasonable belief that the termination was for a valid reason [*Edwards v Giudice*] – where allegations of misconduct made inferences to be reached upon a comfortable level of persuasion, commensurate with gravity of allegation [*Brigginshaw/Bragg*] – whether allegations have necessary connection with employment – facts did not disclose criminal

conviction or charge [*Silling*] – allegations did not take place in employer-provided accommodation or similar nor were they connected to a work sponsored event [*Rose v Telstra*] – Commission held allegations occurred independent of any work related place or event – whether alleged domestic violence had effect on employer’s business capable of consideration [*McManus*] – respondent did not call the person impacted by domestic violence allegations – person impacted suffered unrelated serious health issues and was in recovery – Commission not prepared to draw inference that person impacted's evidence would not help respondent case [*Jones v Dunkel*] – Commission not able to be satisfied that alleged domestic violence was valid reason for dismissal – remainder of allegations involved clearer connection with employment relationship – applicant sent offensive and threatening messages using respondent mobile phone – potential breach of code of conduct – Commission held sending of messages evinced substantial and wilful breach of code of conduct and were a valid reason for dismissal – applicant not notified of reasons for dismissal – Commission held respondent determined to dismiss prior to disciplinary meeting – other relevant matters – acknowledgement by applicant that messages were ill-advised – however while giving evidence applicant at times sought to minimise threats of violence toward person impacted – dismissal was not harsh – consideration of whether defective procedure meant dismissal was unreasonable or unjust [*Byrne v Australian Airlines*] – Commission held dismissal was not unjust or unreasonable – no tenable basis on which employment could have continued in light of valid reason – dismissal not unfair – application dismissed.

U2023/565

Beaumont DP

Perth

[\[2023\] FWC 1681](#)

17 July 2023

Benderli v Itero Australia P/L

GENERAL PROTECTIONS – dismissal dispute – contractor – s.365 Fair Work Act 2009 – jurisdictional objection to application to deal with dismissal dispute on basis applicant not dismissed per s.386 of the Act as was independent contractor not employee – Commission considered whether applicant was employee – affirmed primacy of contract in ascertaining existence and nature of legal relationship [*Personnel Contracting, Jamsek*] – when relationship captured in written contract, that contract decisive of relationship [*JMC*] – subsequent conduct generally irrelevant to construing contract [*Personnel Contracting, JMC*] – when wholly or part oral contract, primacy of contract still applies but subsequent conduct may be admissible for establishing existence of terms (not for adding or subtracting them) [*Personnel Contracting, Timbecon*] – implied terms of oral contract inferred as necessary for effective operation of contract [*Byrne*] – Commission found contract in part written – express written terms included arrangement applicant was subcontractor – while found some implied terms suggestive of employment relationship, on balance found the legal relationship bargained for was that of independent contractor – application dismissed.

C2023/2561

Beaumont DP

Perth

[\[2023\] FWC 1734](#)

21 July 2023

Attieh v Australian Catholic University

TERMINATION OF EMPLOYMENT – valid reason – remedy – ss.392, 394 Fair Work Act 2009 – application for unfair dismissal – Applicant employed by Australian Catholic University as Campus Pastoral Associate – Applicant given first performance improvement plan (PIP) in August 2020, and successfully addressed issued raised – further performance concerns raised led to Applicant’s second PIP in February 2022 – following second PIP, only one issue deemed not successfully improved, being Applicant’s poor relationship with Father Mirko – Brother Michael provided a Report to Mr Tonkli, Associate Director, in April 2022 dealing with Applicant’s performance throughout employment – Applicant provided responses to Report in June and July 2022 – meeting between Brother Michael, Father Mirko, representative from Employment Relations, Applicant and support person held in August 2022 – following

this, Mr Tonkli recommended continuing disciplinary steps against Applicant to Father Casamento – Father Casamento then recommended termination to Vice Chancellor – Vice Chancellor accepted recommendation on basis of Report and wrote to Applicant to notify him of dismissal – Commission noted credibility concerns with Father Mirko’s and Brother Michael’s evidence and preferred Applicant’s evidence where any differences existed – further issue with reliability of Report as solely based on Father Mirko’s complaints which were unsubstantiated by investigation and contained false accusations – Mr Tonkli’s accepted contents of Report and disregarded contents of Applicant’s responses – Commission ultimately held Applicant’s dismissal was harsh, unjust and unreasonable per s.387 and therefore constituted an unfair dismissal – found no conduct to constitute valid reason for dismissal and, in fact, noted difficulty in discerning definitive list of reasons for dismissal in order to allow assessment of validity – potentially Respondent relied on deficiencies said to ground first and second PIP which (except for one issue) had been resolved and considered outdated, as well as circumstances surrounding hiring of field-trip van, purchasing light, change to kayak trip and management of Whatsapp group chat – Respondent’s failure to establish existence of conduct allowing for finding of valid reason for dismissal weighed heavily in favour of finding dismissal unfair – Commission satisfied that: Respondent provided Applicant reasonable opportunity to respond to allegations; Applicant given opportunity for support persons; and Respondent is large organisation with appropriate procedures in place to effect termination of employment – maximum compensation of six months’ pay ordered to Applicant, less mitigation, in lieu of reinstatement, being \$27,185.50.

U2022/10904
Cross DP

Sydney

[\[2023\] FWC 1103](#)
5 July 2023

Bhela v Busways Group P/L

TERMINATION OF EMPLOYMENT – incapacity – inherent requirements – ss.387, 394 Fair Work Act 2009 – applicant worked as bus driver – employment agreement and accreditation policy required applicant hold valid Working with Children’s certification (‘WWCC’) – applicant regularly engaged in child-related work making valid WWCC an inherent requirement of his job – applicant’s WWCC barred – respondent argued that applicant had been non-compliant with inherent requirement to hold WWCC for more than six months by the time of hearing – whether dismissal unfair considered – as applicant’s WWCC was barred, respondent had valid reason to terminate employment due to inability to carry out duties for an extended period – applicant was sufficiently notified of the reason for his dismissal – applicant was given numerous opportunities to respond to the reasons for dismissal – Commission found dismissal to be harsh as applicant’s request to be allowed six months from the loss of certification to regain his WWCC before dismissal took effect not accepted – however, the applicant did not receive inconsistent treatment and there was no evidence that he was targeted as he was a union delegate and HSR – while the Commission determined the dismissal to be harsh and therefore unfair, the respondent was found to have a valid reason for the dismissal, with no failures in procedural fairness afforded to the applicant – remedy of reinstatement not appropriate as applicant still did not possess WWCC – remedy of compensation not appropriate as applicant was also unable to work due to shoulder injury – application dismissed.

U2023/1615
Cross DP

Sydney

[\[2023\] FWC 1500](#)
19 July 2023

Brewer v Benchmark OT P/L

CASE PROCEDURES – apprehension of bias – s.394 Fair Work Act 2009 – applicant made unfair dismissal claim – resigned employment with claim of constructive dismissal – applicant alleged bullying and discrimination on basis of mental health condition – Deputy President set ‘tight’ timetable to determine respondent’s no dismissal jurisdictional objection – Deputy President referred parties to relevant material, including a previous decision he made with same jurisdictional issue –

applicant did not file material but instead requested a different Member determine matter and made complaint about how case was being handled – applicant alleged *inter alia* that reference to similar case evidence of pre judgment – legal test for apprehension of bias – whether fair-minded lay observer might reasonably apprehend the decision maker might not bring impartial mind [*Ebner v Trustee in Bankruptcy*] – rules and conventions governing modern case management and ordinary judicial process adapt to account of the exigencies of modern litigation – at trial level need for more active case management [*Johnson v Johnson*] – Commission held tight timetable set by combination of necessity and availability – no possibility a fair-minded lay observer would reasonably conclude an impartial mind on question of whether dismissal occurred – when dealing with unrepresented parties appropriate to direct parties to relevant legislation and principles [*Jones v Ciuzelis*] – Commission held providing relevant principles and generalised advice standard case management tool – Commission not satisfied any real possibility fair-minded lay observer might not bring an impartial mind to applicant case – applicant’s claim that the Deputy President recuse himself dismissed.

U2022/11835
Easton DP

SYDNEY

[\[2023\] FWC 1568](#)
28 June 2023

Yang v SAL HR Services P/L

TERMINATION OF EMPLOYMENT – jurisdiction – dismissal dispute – remedy – ss.390, 394 Fair Work Act 2009 – applicant initially employed as casual warehouse store person before moving to full-time role in same position – applicant ceased employment on 6 February 2023 – applicant submitted he was dismissed – respondent submitted applicant resigned – alternatively submitted if applicant dismissed the dismissal would have been justified due to applicant's work performance, alleged late attendance to work, and conduct on 6 February 2023 – on 6 February 2023 applicant attended work a few minutes late – applicant and respondent entered into heated exchange about the late attendance – applicant proceeded to drop a metal lighting track in frustration – applicant stated he wanted to leave the workplace – respondent later stated that he would respect the applicant’s choice and parting ways seemed appropriate – applicant left the workplace and considered employment had concluded – respondent then sent applicant a letter stating it accepted his oral resignation – unfair dismissal application was lodged on 7 February 2023 – Commission considered in some circumstances it may be unreasonable to assume a resignation and accept it immediately – Commission found employer may have a duty to confirm intention to resign if on notice resignation not intended – Commission found it was not reasonable for respondent to accept the resignation given the circumstances and by accepting the purported resignation the respondent brought applicant's employment to an end – applicant found to have been dismissed – respondent submitted that if a dismissal occurred it was not unfair – Commission found that some conduct was misconduct – found misconduct would have warranted a minor sanction – respondent submitted that discussions on 6 February 2023 constituted a performance discussion – Commission found that it was not a part of a disciplinary process – applicant was not notified of a valid reason for dismissal prior to decision – applicant was not provided an opportunity to respond – applicant was not given notice of termination or any pay in lieu of notice – Commission found dismissal to be harsh and unreasonable – applicant sought compensation of 6 weeks wages – applicant was employed for 16 months – Commission observed this not a substantial period – consideration to events on 6 February 2023 suggested caution be exercised in presuming ongoing employment – Commission found anticipated period of employment to be 5 weeks including a period of notice – compensation deducted by 5% given 6 February 2023 misconduct – compensation awarded in lieu of reinstatement.

U2023/949
Hampton DP

Adelaide

[\[2023\] FWC 1325](#)
4 July 2023

TERMINATION OF EMPLOYMENT – extension of time – date dismissal took effect – s.394 Fair Work Act 2009 – application for unfair dismissal remedy made on 31 March 2023 – jurisdictional objection raised by respondent that application was not made 21 days after dismissal took effect – question as to when dismissal took effect – applicant submitted date of dismissal to be 10 March 2023, respondent submitted date of dismissal to be 1 March 2023 – applicant expected to be provided with an official notice of termination – Commission determined that email correspondence from respondent to applicant on 28 February 2023, 2 March 2023 and 3 March 2023 did not provide any satisfactory notice to the applicant, instead were unclear and ambiguous – email of 28 February 2023 was conditional on applicant confirming to end the consultation process, applicant questioned the proposition and respondent failed to correct applicant's understanding – respondent's email of 2 March 2023 failed to provide notice of termination or further clarification to applicant's question – respondent submitted that confirmation of redundancy letter was mistakenly not attached in email of 28 February 2023. Confirmation of redundancy letter sent to applicant for the first time on 7 March 2023 – Commission reiterated s.117(1) of the FW Act where an employer is prohibited from terminating an employee's employment unless employer gives the employee written notice on the day of termination, and an employee's employment cannot be retrospectively terminated – Commission found date dismissal took effect to be the same day that respondent communicated the termination, being 7 March 2023 – Commission determined it feasible for applicant to remain employed during a period where an employer does not require an employee to attend work – Commission found *Siagian* does not apply as no communication or payment to applicant was made prior to 7 March 2023 – effective date of dismissal determined as 7 March 2023 – final day of 21-day period was 28 March 2023, therefore application submitted 3 days out of time – whether exceptional circumstances applied to warrant an extension – applicant submitted delay caused by confusion and uncertainty of date of dismissal – Commission accepted applicant's submission as notice of termination of employment is significant and must be properly communicated – applicant corresponded with respondent from 28 February 2023 to 17 March 2023 to dispute the redundancy of position – Commission satisfied exceptional circumstances applied – extension of time for filing allowed – jurisdictional objection dismissed – unfair dismissal application to proceed as programmed.

U2023/2778

Wright DP

Sydney

[\[2023\] FWC 1550](#)

27 June 2023

Cheikho v Insurance Australia Group Services Ltd

TERMINATION OF EMPLOYMENT – misconduct – inactivity – ss.387, 394 Fair Work Act 2009 – application for unfair dismissal remedy – respondent dismissed applicant from Consultant role for misconduct – alleged applicant did not work as required during the period October to December 2022 – applicant submitted no valid reason for termination existed for the dismissal and respondent had a premeditated plan to dismiss due to applicant's mental health issues – respondent relied upon a report of cyber activity, measuring key-stroke activity of applicant during October to December 2022, and performance improvement plan for applicant in December 2022 – respondent provided evidence of raising issues with applicant initially in April 2022, and issuing applicant with a 'Letter of Expectation' on 6 June 2022 – respondent submitted valid reason exists as applicant failed to attend to duties for long periods of time, creating a work health and safety risk for other employees – applicant called to meeting on 2 February 2023 with a union support person to discuss report – applicant failed to provide evidence contrary to the report – respondent issued 'show cause' letter on 13 February 2023 questioning why applicant's employment should not be terminated – applicant provided supporting documents from doctor diagnosing applicant with issues relating to sleep, memory and day to day functioning – applicant questioned accuracy of activity report – applicant unable to retrieve emails from October to December 2022 due to system issues at the time – a valid reason for

dismissal should be "sound, defensible or well founded" and not "capricious, fanciful, spiteful or prejudiced" [*Selvachandran*] – Commission must be satisfied that the conduct occurred and justified the dismissal [*Edwards*] based on evidence provided by parties [*King v Freshmore*] – applicant unable to provide any credible explanation during the employment review process and in proceedings to assist her argument – Commission determined evidence established there were extended times where applicant was not working as required, constituting a valid reason for the dismissal – Commission satisfied applicant was notified of valid reason for dismissal in 'explicit, plain and clear terms' (*Previsic*) in the letter dated 10 February 2023 which explained the applicant's conduct and breach of Code of Ethics and Conduct, the serious misconduct and that termination should follow – Commission satisfied applicant given opportunity to respond prior to the decision being made – s.387(h) requires Commission to take into account other matters such as the 'effects on the personal or economic situation on the dismissed employee' – applicant submitted traumatic setbacks and family bereavements 2 years before termination, negatively impacting applicant – Commission considered applicant's long-term employment with respondent and determined long and satisfactory work history weighed in favour of applicant – Commission considered respondent's submission that applicant's shortcomings created increased difficulty for respondent to meet its legal obligations – Commission satisfied applicant was dismissed for valid reason of misconduct – Commission determined dismissal was not harsh, unjust or unreasonable – application dismissed.

U2023/2059

Roberts DP

Sydney

[\[2023\] FWC 1792](#)

21 July 2023

Fihaki v Uniting Church In Australia, Qld Synod

TERMINATION OF EMPLOYMENT – jurisdiction – intention to create legal relations – minister of religion – ss.382, 394 Fair Work Act 2009 – applicant accepted Letter of Call and ordained as minister – application for unfair dismissal remedy – jurisdictional objection on the basis that applicant was not an employee – applicant submitted that Letter of Call formed employment contract – respondent denied existence of employment relationship submitting that applicant was engaged on a covenantal or spiritual basis – Commission noted that the existence of a religious character in a relationship does not create presumption against an intention to create legal relations [*Ermogenous*] – indicia of employment relationship considered – Commission observed that Letter of Call specifically stated that applicant's engagement did not form an employment relationship – Commission found that use of words 'employee' and 'employer' on applicant's payslips did not evidence existence of an employment relationship [*Timbecon*] – Commission accepted that church comprised unincorporated entities and could not enter into contracts – stipend paid to applicant formed a living allowance and did not constitute remuneration, wages or a salary – Commission found that JobKeeper, superannuation and income tax payments did not evidence existence of employment relationship – no conclusive evidence that respondent controlled discharge of applicant's duties – provision of leave entitlements not conclusive of an employment relationship – Commission found no evidence of employment relationship between property trust or church – no evidence of intention to create legal relations – jurisdictional objection upheld – application dismissed.

U2022/10263

Spencer C

Brisbane

[\[2023\] FWC 1650](#)

7 July 2023

Jenkins v Hydac P/L

TERMINATION OF EMPLOYMENT – termination at initiative of employer – abandonment – s.394 Fair Work Act 2009 – applicant claimed he was dismissed on Monday 3 April 2023 – unfair dismissal lodged Friday 21 April 2023 – respondent filed F3 objecting that application was made out of time – submitted employment ended 24 October 2022 and therefore outside 21-day statutory timeframe – respondent argued that applicant had abandoned employment instead of being dismissed – test

of abandonment requires an objective assessment of whether employee's conduct would convey to a reasonable person that employee had repudiated their duty to meet obligations under contract of employment [*John David Bourke*] – consideration of objective facts showed applicant did not attend work after 5 October 2021 – applicant objected to Covid-19 vaccination mandate due to personal beliefs – on leave between 6 October 2021 and at least 11 November 2021 – from mid-November 2021, the applicant did not provide leave applications or other material that would explain absence from work – insurance claim indicated some level of incapacity but was not authorised by respondent – communication from medical specialist on 11 November 2021 described incapacity as only an unfitness until he could be seen by another specialist within the “next couple of weeks” – no evidence that any absence after that date was authorised – no contact was made to the respondent until 19 January 2023 enquiring as to employment status – Commission found applicant abandoned his employment some time after November 2021 – therefore no finding that he was terminated on the employer's initiative – unnecessary to determine when acceptance of applicant's repudiation occurred – application dismissed.

U2023/3439
Wilson C

Melbourne

[\[2023\] FWC 1499](#)
29 June 2023

Grief v Penguin Composites P/L

TERMINATION OF EMPLOYMENT – minimum employment period – internship – ss.383, 394 Fair Work Act 2009 – applicant challenged dismissal from Graduate Engineer position – jurisdictional objection raised by respondent – suggested applicant not served the minimum employment period of six months – applicant argued he worked for three distinct periods that together satisfied six month requirement – first period considered – unpaid internship at respondent undertaken as requirement for undergraduate degree – internship from 16 November 2021 to 22 February 2022 – determined internship agreement not to a contract of employment – held first period did not count towards service – second period considered – unpaid personal professional development between mid-March 2022 to September 2022 – held not employed by respondent during this period – held second period did not count towards service – third period considered – employed as Graduate Engineer on 19 September 2022 – unauthorised unpaid leave of absence taken from 25 November 2022 – applicant did not return to workplace before dismissal on 2 March 2023 – period of unpaid leave did not count toward service – held unpaid leave did not count towards service – found applicant's period of continuous service was two months and six days – application found to have no reasonable prospects of success as minimum employment period not met – application dismissed.

U2023/2298
Harper-Greenwell C

Melbourne

[\[2023\] FWC 1362](#)
6 July 2023

Chhabra v Catholic Homes Incorporated

TERMINATION OF EMPLOYMENT – misconduct – employer policies – ss.387, 394 Fair Work Act 2009 – applicant was a multi-skilled aged care worker – respondent is a faith-based nursing home – applicant filed unfair dismissal claim – respondent claimed that applicant engaged in elder abuse – relevant subsections of s.387 requires that there must be a valid reason for dismissal, person notified of reason and have an opportunity to respond – respondent's two key witnesses were trainee nurses partnered with applicant – trainee nurses observed applicant's misconduct by his repeated failure to properly clean residents when changing their incontinence pads – observed applicant yell at one resident to wake them in order to change their incontinence pad – observed applicant forced a second resident to drink fluids when the resident had refused to do so – applicant denied all allegations – contended that first resident had not complained about their interaction when he yelled at them – all residents had been cleaned in accordance with procedure – had tried to calm resident when giving her fluids that she needed to drink – respondent's Human Resources team provided applicant with a notice of complaint – arranged an investigation

meeting – applicant warned of his termination – applicant offered opportunity to respond to allegations – applicant conceded aspects of the allegations were true, but sought to present the issues in best possible light – Commissioner found applicant not to be credible witness and that respondent’s witnesses were credible – found on the balance of probabilities misconduct did occur – applicant breached workplace policies that he had agreed to adhere to as part of his employment contract – found that the respondent had a valid reason for termination – found that applicant was notified of misconduct claims and had opportunity to respond to the claims – held applicant was not unfairly dismissed – Commissioner specifically praised conduct of student nurses for reporting applicant's conduct to respondent – application dismissed.

U2022/6640
Schneider C

Perth

[\[2023\] FWC 1765](#)
19 July 2023

Subscription Options

You can [subscribe to a range of updates](#) about decisions, award modernisation, the annual wage review, events and engagement and other Fair Work Commission work and activities on the Fair Work Commission’s website. These include:

Significant decisions – This service contains details of recently issued full bench decisions and other significant decisions. Each email contains links to the complete decisions and the Find Commission decisions web page. It is emailed when decisions are published.

All decisions – This service contains details of all recently issued Commission decisions with links to the complete decisions. Each email contains links to the complete decisions and the Find Commission decisions web page. It is emailed up to twice daily.

Websites of Interest

Department of Employment and Workplace Relations -

<https://www.dewr.gov.au/workplace-relations-australia> - provides general information about the Department and its Ministers, including their media releases.

AUSTLII - www.austlii.edu.au/ - a legal site including legislation, treaties and decisions of courts and tribunals.

Australian Building and Construction Commission – www.abcc.gov.au/ - regulates workplace relations laws in the building and construction industry through education, advice and compliance activities.

Australian Government - enables search of all federal government websites - www.australia.gov.au/.

Federal Register of Legislation - www.legislation.gov.au/ - legislative repository containing Commonwealth primary legislation as well as other ancillary documents and information, and the Federal Register of Legislative Instruments (formerly ComLaw).

Fair Work Act 2009 - www.legislation.gov.au/Series/C2009A00028.

Fair Work (Registered Organisations) Act 2009 - www.legislation.gov.au/Series/C2004A03679.

Fair Work Commission - www.fwc.gov.au/ - includes hearing lists, rules, forms, major decisions, termination of employment information and student information.

Fair Work Ombudsman - www.fairwork.gov.au/ - provides information and advice to help you understand your workplace rights and responsibilities (including pay and conditions) in the national workplace relations system.

Federal Circuit and Family Court of Australia - <https://www.fcfa.gov.au/>.

Federal Court of Australia - www.fedcourt.gov.au/.

High Court of Australia - www.hcourt.gov.au/.

Industrial Relations Commission of New South Wales - www.irc.justice.nsw.gov.au/.

Industrial Relations Victoria - www.vic.gov.au/industrial-relations-victoria.

International Labour Organization - www.ilo.org/global/lang--en/index.htm - provides technical assistance primarily in the fields of vocational training and vocational rehabilitation, employment policy, labour administration, labour law and industrial relations, working conditions, management development, co-operatives, social security, labour statistics and occupational health and safety.

Queensland Industrial Relations Commission - www.qirc.qld.gov.au/index.htm.

South Australian Employment Tribunal - www.saet.sa.gov.au/.

Tasmanian Industrial Commission - www.tic.tas.gov.au/.

Western Australian Industrial Relations Commission - www.wairc.wa.gov.au/.

Workplace Relations Act 1996 - www.legislation.gov.au/Details/C2009C00075

Fair Work Commission Addresses

Australian Capital Territory

Level 3, 14 Moore Street
Canberra 2600
GPO Box 539
Canberra City 2601
Tel: 1300 799 675
Fax: (02) 6247 9774
Email:
canberra@fwc.gov.au

New South Wales

Sydney

Level 10, Terrace Tower
80 William Street
East Sydney 2011
Tel: 1300 799 675
Fax: (02) 9380 6990
Email:
sydney@fwc.gov.au

Newcastle

Level 3, 237 Wharf
Road,
Newcastle, 2300
PO Box 805,
Newcastle, 2300

Northern Territory

10th Floor, Northern
Territory House
22 Mitchell Street
Darwin 0800
GPO Box 969
Darwin 0801
Tel: 1300 799 675
Fax: (08) 8936 2820
Email:
darwin@fwc.gov.au

Queensland

Level 14, Central Plaza
Two
66 Eagle Street
Brisbane 4000
GPO Box 5713
Brisbane 4001
Tel: 1300 799 675
Fax: (07) 3000 0388
Email:
brisbane@fwc.gov.au

South Australia

Level 6, Riverside
Centre
North Terrace
Adelaide 5000
PO Box 8072
Station Arcade 5000
Tel: 1300 799 675
Fax: (08) 8308 9864
Email:
adelaide@fwc.gov.au

Tasmania

1st Floor, Commonwealth
Law Courts
39-41 Davey Street
Hobart 7000
GPO Box 1232
Hobart 7001
Tel: 1300 799 675
Fax: (03) 6214 0202
Email:
hobart@fwc.gov.au

Victoria

Level 4, 11 Exhibition
Street
Melbourne 3000
PO Box 1994
Melbourne 3001
Tel: 1300 799 675
Fax: (03) 9655 0401
Email:
melbourne@fwc.gov.au

Western Australia

Floor 16,
111 St Georges Terrace
Perth 6000
GPO Box X2206
Perth 6001
Tel: 1300 799 675
Fax: (08) 9481 0904
Email:
perth@fwc.gov.au

Out of hours applications

For urgent industrial action applications outside business hours, please refer to our [Contact us](#) page for emergency contact details.

The address of the Fair Work Commission home page is: www.fwc.gov.au

The FWC Bulletin is a monthly publication that includes information on the following topics:

- summaries of selected Fair Work Decisions
- updates about key Court reviews of Fair Work Commission decisions
- information about Fair Work Commission initiatives, processes, and updated forms.

For inquiries regarding publication of the FWC Bulletin please contact the Fair Work Commission by email: subscriptions@fwc.gov.au.

© Commonwealth of Australia 2023