FWC Bulletin

7 November 2022 Volume 23/22 with selected Decision Summaries for the month ending Monday, 31 October 2022.

Contents

Notice to Profession – Role of Junior Counsel in Commission proceedings

President of the Commission, Justice Ross issued a Notice to Profession on 7 November 2022.

[1] The Fair Work Commission encourages the active participation of junior counsel in cases where two or more counsel are briefed for a person and the Commission has granted the person permission to be represented by a lawyer or paid agent in a Commission conference or hearing.

[2] The Commission recognises that junior counsel will often have made a substantial contribution to the preparation of the case, and will best develop as advocates by being given opportunities to present argument and examine and cross-examine some witnesses.

[3] Where appropriate, the Commission encourages senior counsel to divide submissions between themselves and junior counsel, or ask junior counsel to make submissions in reply, call evidence or cross examine witnesses.

End of year timeframes for approval of enterprise agreement applications

December is usually the busiest time of the year for enterprise agreement applications. The Commission does not close over the festive period, and we will continue to process and approve enterprise agreements as quickly as possible.

If you want your agreement to be approved quickly and easily, we recommend you:

- Check the helpful information on our online guide: Make an enterprise agreement
- Make sure your application is complete and complies with all requirements
- Lodge your application as early as possible
- Provide contact details with your application for someone who will be available over the festive period, in case we need further information

We usually approve simple (complete and compliant) applications in about 2 weeks. More complicated or incomplete ones often take longer. If too many applications are lodged in the second half of December the increased volume may also cause delays, so we recommend you get in early.

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 October 2022

1 MODERN AWARDS – 4 yearly review – finalisation – s.156 Fair Work Act 2009 – Full Bench – Full Bench was constituted on 2 September 2019 to oversee the finalisation of the 4 yearly Review of modern awards (the Review) [[2019] FWCFB 6077] – this Statement finalises the Review save for a small number of outstanding matters – the Review commenced in early 2014 – on 12 December 2018, s.156 was repealed by the *Fair Work Amendment (Repeal of 4 Yearly Reviews and Other Measures) Act 2018* (the 4 Yearly Review Amending Act) with effect from 1 January 2018 – under the application and transitional provisions of the 4 Yearly Review Amending Act, a review of an award that commenced but was not completed before 1 January 2018 could continue under the terms of the repealed provisions – the Review was the first opportunity for the Commission to thoroughly consider the operation of modern awards since the award modernisation process commenced in 2008 – prior to the award modernisation process and the commencement of modern awards on 1 January 2010, there were 3323 instruments setting pay and conditions across the country – there are now 121 modern awards of general application – the conduct of the Review has been open and transparent – the Review was divided into 3 parts, an initial stage which dealt with preliminary issues, an award stage during which each award was reviewed and redrafted and a common issues stage – throughout the Review the Commission has: dealt with approximately 256 individual matters including some 66 applications by industrial parties for substantive changes to particular modern awards; held over 1300 days of hearings, conferences and mentions; received submissions from thousands of parties, including employers, unions and individual employees; published over 25,000 documents (including submissions, witness statements, correspondence, notices of listings and transcript) on the Commission's website; issued over 700 Decisions and Statements; and sent over 1700 emails to subscribers – the Review identified 3 areas of perceived award complexity: the length of modern awards; the meaning of award terms; and the complexity of the entitlements themselves – simplifying the language and structure of modern awards has been a central focus of the Review – in a Statement issued 16 September 2022 (September 2022 Statement), the Commission outlined the plain language project undertaken as part of the Review [[2022] FWCFB 177] – common issues were proposals for change across all or most modern awards and included: abandonment of employment (AM2016/35); annualised salaries (AM2016/13); annual leave (AM2014/47); apprentice conditions (AM2014/192); award flexibility/facilitative provisions (AM2014/300); blood donor leave (AM2016/36); casual employment (AM2014/197); family and domestic violence clause (AM2015/1); family friendly work arrangements (AM2015/2); micro business schedule (AM2014/306); national training wage (AM2016/17); overtime for casuals (AM2017/51); part-time employment (AM2014/196);

payment of wages (AM2016/8); part-day public holidays (AM2014/301); and transitional/sunsetting provisions relating to accident pay, redundancy and district allowances (AM2014/190) – as a result of the common issue proceedings, the following award provisions have been inserted into all modern awards during the Review – 1. an entitlement to 5 days' unpaid leave to deal with family and domestic violence – 2. a right to request conversion from casual employment to part-time or full-time employment – 3. a right to request flexible working arrangements in certain circumstances – 4. three new provisions relating to annual leave which allow employers and employees to more effectively manage their leave; firstly, a term allowing employees to cash out annual leave; secondly a term which allows employees to apply for and take leave in advance of the entitlement to leave accruing and thirdly a provision which allows employers to direct employees to take leave in circumstances where they have an excessive leave balance – template agreements for cashing out annual leave and taking annual leave in advance were included as schedules to each modern award – 5. the provisions about taking time off in lieu of payment for overtime (TOIL) were standardised in the 21 modern awards that had such a term prior to the Review – a TOIL term was also inserted in 92 other modern awards that did not previously provide this flexibility – a template agreement for TOIL was inserted as a schedule to each of the relevant modern awards – outstanding matters relate to: overtime for casuals – tables of rates (AM2017/51); shutdown provisions (AM2016/15); part-day public holidays (AM2014/301 and AM2019/17); and *Supported Employment Services Award 2020* substantive claims (AM2014/286) – the 4 yearly Review function was repealed with effect from 1 January 2018 meaning that there will be no more 4 yearly reviews – however, the Commission may still make, vary or revoke a modern award either on application or on its own motion – it is open to anyone with the requisite standing under s.158 of the FW Act to make an application to vary a modern award – the Review has required the Commission to consider a significant number of variations to modern awards and to accord procedural fairness to all interested parties prosecuting and responding to various claims – the Review has required significant input from Commission staff, stakeholder organisations and individuals – the Full Bench thank all those who have contributed to the Review.

4 yearly review of modern awards

AM2019/17 [2022] FWCFB 189
Ross J Melbourne 17 October 2022
Clancy DP
Bissett C

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2 ENTERPRISE AGREEMENTS – employee organisation coverage – greenfields agreement – ss.172, 187, 604 Fair Work Act 2009 – appeal – Full Bench – application for permission to appeal Commission's decision of 2 August 2022 to approve *John Holland Queensland P/L Gold Coast Light Rail Stage 3 Project Agreement* (August Approval Decision) – appellant is not a party to Agreement – Full Bench concluded that appellant was a 'person who is aggrieved' within s.604(1) and thus had standing to bring an appeal – [*Fraser* cited] – in August Approval Decision, Commission held that Agreement was a greenfields agreement that met requirements of s.172(2)(b) Fair Work Act and AMWU, CFMMEU and CEPU (the union parties) were entitled as required

by s.187(5) to represent industrial interests of a majority of employees who will be covered by the Agreement in relation to work that is to be performed under it – appellant argued that Commission erred and submitted that on 16 June 2022, a differently constituted Commission [[2022] FWC 1524] had dismissed an earlier application by John Holland Queensland P/L (John Holland) for approval of a greenfields agreement (first agreement) in virtually identical terms to the Agreement (June Dismissal Decision) – in its June Dismissal Decision the Commission had concluded on the basis of extensive evidence and submissions that CEPU was not a party to the first agreement because it failed to execute it and that even if CEPU was taken to be a party, the 3 unions were not entitled to represent industrial interests of a majority of employees who would have been covered by the first agreement – John Holland did not appeal the June Dismissal Decision – approximately 3 weeks after June Dismissal Decision, the Agreement was executed – John Holland subsequently filed an application for approval of the Agreement – in answer to a question on the application form about whether any other agreement that had identical or substantially identical terms had been lodged or dealt with by the Commission, John Holland referred to the June Dismissal Decision, but did not make clear that the Commission had found that the majority union coverage requirement in s.187(5) had not been satisfied – John Holland's application and the declarations lodged by the 3 unions in support of approval of the Agreement stated that the 3 unions were as a group entitled to represent the industrial interests of a majority of the employees who will be covered by the Agreement in relation to work to be performed under it – Full Bench observed that as requirement for approval of greenfields agreement in s.187(5) allows a degree of latitude as to the choice of the decision to be made*, House v The King* standard of appellate review applies on appeal – thus for its appeal to succeed, appellant must demonstrate that Commission in its August Approval Decision acted on a wrong principle; mistook the facts; took into account an irrelevant consideration or failed to take into account a material consideration; or made a decision which is plainly unreasonable or unjust – Full Bench noted that Commission had no material placed before it concerning satisfaction of s.187(5) majority union coverage criterion other than 'bare assertions contained in the declarations filed by John Holland and the three unions' – Full Bench held that the June Dismissal Decision was a relevant consideration which was necessary for Commission to take into account in order to properly exercise its discretion in relation to the Agreement – Full Bench held that the Commission's findings in the June Dismissal Decision 'constituted the most probative material available in relation to s.187(5)(a)' – Full Bench noted that in considering the Agreement, the Commission was not bound to follow the June Dismissal Decision but the proper exercise of the Commission's discretion required it to consider the June Dismissal Decision and if it formed a different view, explain its reasons for being satisfied as to the question of majority union coverage [*ResMed Limited v AMWU*] – Full Bench concluded that Commission's failure in its August Approval Decision to take into account the June Dismissal Decision was the result of John Holland's failure to properly identify the June Dismissal Decision's relevance and significance in its application for approval of the Agreement – 'It verged on misleading the Commission by omission for each of the declarations supporting the application to simply assert, without qualification or reference to the [June Dismissal Decision], that the three unions were entitled to represent the industrial interests

of a majority of employees who would be covered by the Agreement' – if June Dismissal Decision had been taken into account, there was 'at the very least a real possibility' that Commission might have made a different decision on the Agreement – Full Bench granted permission to appeal and upheld the appeal – necessary for Full Bench to redetermine the application for approval of the Agreement and give parties opportunity to adduce further evidence and make further submissions – directions hearing to be conducted – after preparing its reasons for decision in this appeal matter, Full Bench became aware that John Holland's lawyers had notified Commission by email that John Holland and appellant had reached agreement that the August Approval Decision should be 'quashed by consent without further reasons' and John Holland's application for approval of the Agreement should be remitted for determination – Full Bench observed it would 'generally not be appropriate to…quash a decision by consent without the demonstration of appealable error', especially in relation to decisions about approval of enterprise agreements, because s.186(1) requires Commission to approve enterprise agreements which meet requirements of ss.186 and 187 and 'to quash a decision of this nature on appeal absent demonstrated error might be perceived as vitiating the Commission's duty under s.186(1)' – John Holland has now applied for approval of a non-greenfields agreement to cover stage 3 of the light rail project (New Application) and appellant agreed not to contest it – John Holland wanted the redetermination of its application for approval of the Agreement to be held in abeyance until New Application determined – if New Application is granted then John Holland will discontinue application for approval of the Agreement – Full Bench decided to defer directions hearing until it received further advice from the parties about the New Application – permission to appeal granted – August Approval Decision quashed – John Holland's application regarding Agreement stood over pending further advice from the parties .

Appeal by The Australian Workers' Union against decision of Colman DP of 2 August 2022 [[2022] FWCA 2599] Re: John Holland Queensland P/L and Ors

C2022/5610 [2022] FWCFB 190
Hatcher VP Sydney 18 October 2022
Catanzariti VP
McKinnon C

3 CASE PROCEDURES – apprehension of bias – ss.237, 604 Fair Work Act 2009 – appeal – Full Bench – application for permission to appeal Commission decisions of 14 September 2022 (regarding appellant's recusal application) and 21 September 2022 (regarding refusal to vacate existing directions issued in the matter) – matter concerns an application by Australian Workers' Union (AWU) for a majority support determination which if granted, would require appellant to commence bargaining for a new enterprise agreement – in its application, AWU had contended majority support criterion in s.237(2)(a) Fair Work Act is established on basis of individually-signed petitions obtained from a majority of employees who would be covered by any new enterprise agreement – appellant had contended that petitions did not constitute a reliable basis for satisfaction as to criterion in s.237(2)(a) – at first instance, Commission had issued directions which stated the proposed method for Commission to ascertain whether majority of employees want to commence bargaining was

based on the petitions (petition method) – directions also stated that appellant was to file submissions about: whether it opposes proposed petition method and if so, what alternative method it proposes; whether the group of employees is fairly chosen; and whether it is reasonable for Commission to make majority support determination – Commission refused appellant's application for production of documents including unredacted copies of signed petitions (production decision) – in August 2022, a Full Bench refused appellant permission to appeal production decision – appellant made recusal application on basis of a reasonable apprehension of bias said to arise from the directions issued by, and the production decision made by, the Commission (as constituted by Deputy President Binet) – in its recusal application, appellant had contended that a particular sentence in the directions was 'incorrect as a matter of law' and gave rise to an inference that Commission had reached a concluded view that requirements in s.237(2)(b) – (d) had been met – in its first instance decision on the recusal application, Commission noted the directions were 'templated documents and are drafted in contemplation of their use by parties who are unrepresented and industrially unsophisticated as well as those who are not…Paragraph [4] of the Directions is no more than an introduction to procedural directions that follow and would not be understood by any reasonable lay observer to represent a summary of the law at all, much less a comprehensive one' – Commission also said at first instance that having regard to its direction to appellant to file submissions, a fair-minded lay observer could not understand the sentence to mean that Commission would not have regard to submissions of the parties or had a concluded view on any matter relevant to AWU's application – ground one of appellant's appeal related to first instance recusal decision and ground two related to first instance decision not to vacate the directions that had been issued – Full Bench granted permission to appeal in relation to ground 1 because it raised issues of sufficient significance to justify appellate determination – apprehension of bias principle requires a two-step process [*Ebner v Official Trustee in Bankruptcy*] – 'One particular occasion of apprehended bias is where it is said…that the judge has relevantly prejudged matters in controversy. In this context, disqualifying bias results in a state of mind that is not open to persuasion' [*Cabcharge Australia Ltd v ACCC*] – Full Bench concluded Commission's recusal decision was correctly decided at first instance and appellant's apprehended bias case was untenable – Full Bench did not accept that any impugned parts of the directions or the production decision might reasonably be read as indicative of possible prejudgment of any issue yet to be determined – in its directions, Commission had allowed appellant to file submissions generally in response to AWU's application, and the directions specifically contemplate that submissions would address method of assessing majority support for the purpose of s.237(2)(a) as well as issues arising for determination under ss.237(2)(c) and (d) – Full Bench held that 'The fair-minded lay observer would appreciate that this indicates a willingness on the part of the Deputy President to hear and consider submissions from [the appellant] in opposition to reliance on the AWU petitions or the use of the petition method to assess majority support…and would not in that context read any other part of the directions as indicative of a possible commitment to a conclusion about these issues already formed which is incapable of alteration' – in relation to the production decision, Full Bench found that purpose of the production decision was not to advocate or defend the petition method – rather, production decision would

be understood by fair-minded lay observer to contain Commission's reasons for refusing appellant's application for production of documents which would disclose identity of employees who signed AWU's petition – with respect to appeal ground one, permission to appeal granted but appeal dismissed – with respect to appeal ground two, permission to appeal refused. .

Appeal by Woodside Energy Ltd against decisions of Binet DP of 14 September 2022 and 21 September 2022 [[2022] FWC 2236] Re: The Australian Workers' Union

C2022/6360 [2022] FWCFB 192
Hatcher VP Sydney 25 October 2022
Catanzariti VP
Cross DP

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4 INDUSTRIAL ACTION – termination of protected industrial action – ss.414 and 418 Fair Work Act – application for order that industrial action by employees or employers stop – on 23 September 2022 a protected action ballot order was issued by the Commission – independent ballot agent declared results on 12 October 2022 at 2:18pm and provided results to first respondent – respondents provided written notice of intent to take various forms of action – written notice provided to applicant on 12 October 2022 at 2:52pm – applicant applied for order that unprotected industrial action stop or not occur – applicant contended written notice did not meet requirements of s.413 and therefore action taken in reliance of notice was unlawful industrial action – applicant suggested written notice cannot be provided until the day after ballot result are declared – crux of argument turned on meaning of 'after' in s.414(3) – applicant's argument based on interpretation of s.414(3) in light of s.36(1) of *Acts Interpretation Act 1901* (AIA) which concerns calculating time – Commission observed contemporary approach to statutory interpretation requires consideration of statutory text whilst having regard to its context and purpose [*SZTAL*] – further observed s.15AA of AIA suggests an interpretation that promotes the purpose or object of the underlying Act is to be preferred to an interpretation that would not – applicant suggested for notice to be valid it must be provided after, being the day after, the results of the vote are declared – respondents opposed this argument – respondents suggested meaning of 'after' was that declaration of results is the condition precedent for written notice being provided – consideration of word 'after' in s.414(3) in context of the Act – Commission observed other parts of the Act use the word 'after' in conjunction with stated timeframes to establish time limits for action, for example s.459(1)(d) prescribes a 30 day period 'starting on the date of the declaration of the results of the ballot' for industrial action to commence – observed that applicant's interpretation would remove one day from that period – held s.414(3) does not require written notice be provided 'after the day' an event occurs, in this case being declaration of results – held declaration of results being provided is the only precondition to providing written notice – held not satisfied industrial action would not be protected – applications dismissed.

OGS Australia P/L v "Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as the Australian Manufacturing Workers' Union and Anor

C2022/7004 and Anor [2022] FWC 2817
Beaumont DP Perth 20 October 2022

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5 TERMINATION OF EMPLOYMENT – misconduct – employer policies – criminal conviction overturned on appeal – reinstatement – ss.391, 394 Fair Work Act 2009 – unfair dismissal application – applicant was a Station Duty Manager at a train station – in March 2021, applicant was charged under Crimes Act 1900 (NSW) with common assault and sexually touching a child between 10 and 16 years of age – first charge was hugging a child who was in year 8 at the train station and second charge was allegedly kissing the child on the neck while he hugged her – CCTV showed that applicant reached out and hugged child and she hugged him back – child said applicant kissed her on the neck but applicant denied doing so – applicant's employment suspended with pay from March 2021 – respondent appointed external investigator – respondent found that applicant had hugged and kissed child in contravention of its code of conduct – in October 2021, respondent advised that disciplinary process would be put on hold pending outcome of criminal charges – in December 2021 in NSW Local Court, applicant convicted and sentenced to community correction order and conditional release order – respondent advised applicant of intention to suspend him without pay – applicant appealed conviction and sentence – respondent did not allow applicant to remain employed on unpaid leave pending appeal outcome and terminated his employment on 28 January 2022 – in February 2022, applicant made unfair dismissal application in Commission – on 31 May 2022, NSW District Court upheld applicant's appeal and set aside findings of guilt and Local Court's orders – applicant and child knew each other before incident because in November 2020, child attended the station and told applicant she was being harassed or stalked by another passenger – applicant helped child including by contacting her father, escorting her to a train, and checking with child's mother that child had a safe journey – respondent agreed that applicant acted appropriately on that occasion – in 2021, child regularly attended the station during her commute to school – on 8 March 2021, child did not have her travel card and applicant gave her a generic business card and handwrote his nickname and work-issued mobile number on it – applicant stated that he did so to ensure child could call him if she was in danger as he had a duty of care – during disciplinary process, respondent alleged that applicant acted inappropriately but abandoned that allegation prior to dismissal – respondent's reasons for dismissing applicant were that he kissed child on the neck and even if he did not, the hug alone justified dismissal – Commission considered whether there was a valid reason for dismissal under s.387(a) Fair Work Act – when reason for termination based on employee misconduct, Commission must, if it is in issue, determine whether the misconduct occurred [*Hilder*] – there would be a valid reason for termination if misconduct occurred and justified termination, but there would not be a valid reason if misconduct did not occur or did occur but did not justify termination, for instance because it involved a trivial misdemeanour [*Hilder*] – Commission noted that the test is not whether employer believed on reasonable grounds that employee was guilty of misconduct which resulted in termination [*King v Freshmore (Vic) P/L*] – question of whether alleged misconduct took place is to be determined based on the evidence in the proceedings – Commission made clear that it did not take into account applicant's conviction or subsequent quashing of that conviction and that its task was to decide for itself whether alleged misconduct occurred – Commission satisfied after repeated viewings of CCTV footage that footage did not show

that applicant kissed child's neck but accepted that child believed applicant had done so – thus no valid reason for dismissal regarding alleged kiss – Commission found that the hug constituted a valid reason for dismissal – Commission satisfied that applicant was notified of valid reason under s.387(b) – satisfied that applicant given a proper opportunity to respond to allegations – Commission concluded that although a single hug of a child could be a valid reason for dismissal, in all the circumstances including particularly applicant's 9 years of service, exemplary employment record, and history of 'satisfactory if not commendable dealings with the student', it was harsh and/or unreasonable for him to be dismissed – Commission noted that respondent must be 'uncompromisingly vigilant about matters of child protection' and 'Staff should not hug customers who are children except in extreme and unusual circumstances, such as providing necessary comfort or protection to a child that is distressed or in danger' – Commission observed however that respondent 'can be uncompromisingly vigilant and can enforce proper boundaries without dismissing [applicant] because of one isolated incident' – applicant sought reinstatement – evidence of Chief Health Officer at Transport for NSW was that applicant might not be fit to return to work – Commission noted the 'mere possibility' that applicant might not be fit to immediately return to work was not a basis to find that reinstatement was not appropriate – Commission inclined to order under s.391(1)(a) that applicant be reinstated to his position at same train station but prepared to order reinstatement under s.391(1)(b) to same level but at different train station – appropriate to make an order maintaining continuity of employment under s.391(2)(a) – appropriate to order under s.391(3) that respondent pay part but not all remuneration lost due to dismissal, namely amount representing lost remuneration since 31 May 2022, being date of District Court's decision to quash conviction – amount to be reduced by any remuneration earnt since that date – parties directed to confer on appropriate form of reinstatement order and calculation of amount to be ordered to be paid under s.391(3). .

Elali v Sydney Trains

U2022/2067 [2022] FWC 2757
Easton DP Sydney 14 October 2022

Other Fair Work Commission decisions of note

Appeal by Zirk-Sadowski against decision of Yilmaz C of 5 July 2022 [[2022] FWC 2086] Re: The University of New South Wales

CASE PROCEDURES – confidentiality – ss.594, 604 Fair Work Act 2009 – appeal – Full Bench – appeal against decision not to prohibit publication of names and evidence – appellant lodged s.365 application 1004 days outside statutory time limit – in advance of 5 July 2022 extension of time (EOT) hearing appellant proposed to apply for confidentiality orders under s.593 – appellant sought for names and evidence to be prohibited from publication suggesting, inter alia, information and evidence before the Commission was already subject to non-publication order, would cause embarrassment to him, that he was a victim of extortion and that in Europe, where appellant resides, it is common for names of parties to not be included in full – at EOT hearing Yilmaz C issued *ex tempore* decision declining to make confidentiality orders sought – Commissioner determined she was not required to disclose contents of contested documents for the purpose of determining the EOT and that mere embarrassment is not sufficient basis on which to not publish names of parties – EOT decision published on 8 August 2022 which included names of appellant and respondent – Full Bench observed decision under appeal is of a discretionary nature

and only successfully appealable if the discretion was not exercised correctly [*Wingate*] – observed principle of open justice will usually be paramount when considering confidentiality orders – Full Bench noted main features of open justice principle, including that deviation from open justice only justified where observance would frustrate administration of justice by unfairly damaging a material public or private interest and that the deviation should only be as far as required to achieve administration of justice [*Seven Network (Operations)*] – permission to appeal considered – Full Bench did not find any arguable case of appealable error on any ground raised by the appellant – Full Bench held Commission not limited by non-publication order of New South Wales Personal Injuries Commission – Full Bench rejected suggestion appellant's claim he is a victim of extortion is relevant to EOT matter – Full Bench agreed with Yilmaz C that as appellant now resides in Europe there was no material before the Commission which would cause harm to the parties and decision is likely of 'little or no interest in a foreign country.' – held not satisfied it would be in the public interest to grant permission to appeal – permission to appeal refused.

C2022/5233 [2022] FWCFB 188
Catanzariti VP Sydney 14 October 2022
Young DP
Lee C

Paterson v Electricity Networks Corporation t/a Western Power

TERMINATION OF EMPLOYMENT – valid reason – s.394 Fair Work Act 2009 – application for unfair dismissal remedy – applicant employed as a lineworker in respondent's electrical business – applicant dismissed following internal investigation into safety incident – safety incident involved customer receiving electric shock – applicant was the site coordinator – applicant had never previously been subject to any disciplinary action – as per enterprise agreement, applicant required to comply with a range of procedures – this included Code of Conduct, Safety, Health and Environment Standard, Electrical Safety System Rules and all relevant safety procedures and instructions – respondent sent applicant show cause letter containing various allegations – respondent submitted applicant failed to comply with several safety procedures – applicant produced reply to show cause letter, expressed deep remorse and accepted 'complete responsibility' – respondent terminated applicant following investigation – other employees involved received warnings – applicant found new employment as lineworker in a different company – Commission considered whether dismissal was harsh, unjust or unreasonable under s.387 of the FW Act – Commission considered fairness of dismissal when related to safety breaches as per *BHP Coal P/L t/a BMA v Schmidt* – where safety breaches are involved, 'fairness' of dismissal needs to consider the employer's broader obligations to ensure a safe workplace and community – Commission considered respondent's evidence relating to allegations of safety breaches and failure to adequately notify – Commission considered the applicant's own admission of accountability from his statement in reply as evidence incident was applicant's fault – applicant submitted the conduct was on the 'lower end' of seriousness – Commission did not accept this, identified breaches as serious – Commission considered a range of factors including seriousness of breach; adherence to company safety procedures; existence of OHS training; whether breaches were recurring or isolated; and whether relevant employee was a supervisor – Commission found applicant prioritised timeliness of service delivery over safety and adhering to safety policies – Commission found that applicant acted to reenergise power network without obtaining proper authority – Commission found applicant failed to adequately report incident – Commission found applicant was a supervisor – Commission satisfied these were valid reasons for dismissal under s.387 of the FW Act – Commission satisfied applicant was notified reasons for dismissal and was given an opportunity to respond – the Commission noted although 'tragic' given the 'unblemished' and 'dedicated' career of the applicant, the outcome was necessary to preserve the respondents' confidence in safety of its workplace – Commission found dismissal was not harsh, unjust or unreasonable under s.387 of the FW Act – no unfair dismissal – application dismissed.

U2022/694 [2022] FWC 1522
Binet DP Perth 21 October 2022

Spaull v Matthews Bronze Unit Trust

TERMINATION OF EMPLOYMENT – genuine redundancy – remedy – ss.389, 394 Fair Work Act 2009 – unfair dismissal application – applicant employed by respondent on 16 May 2017 initially in a graphics design role pursuant to the *Graphic Arts, Printing and Publishing Award 2010* – on 14 November 2018 applicant was promoted to the role of Graphics Supervisor governed by the Award – on 1 July 2020 applicant was promoted to the role of Graphics Manager; the contract of employment did not specify coverage pursuant to the Award – at 8.30am on 22 March 2022 respondent held a meeting with staff including applicant to discuss a restructure; applicant was informed during this meeting that his role would be made redundant – at 9.15am on 22 March 2022, applicant was invited to further meeting to discuss the redundancy – on 24 March 2022 applicant returned company property and was provided with a letter of termination confirming redundancy – specifically the termination letter confirmed the absence of redeployment options – applicant made unfair dismissal application and submitted that he was not consulted at any time regarding available redeployment options with respondent – respondent submitted that there had in fact been discussions towards redeployment options – respondent's witnesses conceded that redeployment options were available with the respondent's business which had not been raised with applicant – Commission utilised the 'principal purpose' test to confirm the Graphics Manager role to be aligned with the Award; applicant employment was Award governed, Award stipulated redundancy consultation obligations must be observed – Commission determined that reasonable redeployment options existed and there had been a failure to consult with applicant pursuant to the Award stipulated obligations – applicant's dismissal was not a case of genuine redundancy pursuant to s.389 of the Fair Work Act – applicant submitted that dismissal was harsh, unjust, and unreasonable – Commission found most indicia noted in s.387 of the Fair Work Act as being neutral considerations in this matter – nevertheless, Commission contrasted factual matrix to those in *Maswan,* noting dismissal was not inevitable even with consultation regarding redeployment options, and with redeployment the redundancy could have been avoided – observed that this 'weighed strongly in favour' of finding applicant's dismissal was unjust and unreasonable – Commission concluded that dismissal was unjust, unreasonable and unfair – satisfied that reinstatement not appropriate but compensation is appropriate – applicant had received a severance payment from respondent, which Commission deducted from compensation amount – application granted – compensation awarded.

U2022/4323 [2022] FWC 2870
Masson DP Melbourne 26 October 2022

The Trustee For Beckworth Family Trust T/A Door World

CONDITIONS OF EMPLOYMENT – redundancy – other acceptable employment – s.120 Fair Work Act 2009 – application to vary redundancy pay – applicant's door joinery business due to close in May 2016 as owners wanted to retire – applicant sought to vary the six week redundancy entitlement for a worker, Mr M, to three weeks as applicant suggested it found other acceptable employment for Mr M – alternative employment was with another joinery company nearby – applicant arranged for Mr M to meet owner of alternative joinery company – applicant suggested during meeting the alternative joinery company offered to employ Mr M, who accepted the offer – applicant issued termination letter by reason of redundancy to Mr M on 20 July 2022 – termination took effect on 22 August 2022 – Mr M commenced employment with alternative joinery company on 29 August 2022 – alternative employment on similar conditions save for rate of pay – rate of pay lower at alternative joinery company – redundancy entitlement considered – satisfied Mr M entitled to redundancy pay as employment terminated at applicant's initiative – satisfied Mr M's entitled to six weeks' redundancy pay – other acceptable employment consideration – whether

applicant obtained other employment for Mr M – 'obtain' taken to mean 'possession [as a] result of the conscious, intended, acts of the person concerned as distinct from, for example, coming into possession of something by gift or inheritance.' [*FBIS International Protective Services*] – found Mr M's alternative employment arose due to applicant's conscious and intended actions – held applicant obtained alternative employment for Mr M – consideration whether alternative employment acceptable – observed objective standard applied in determining acceptability and necessary to consider all of the circumstances [*National Union of Workers*] – Mr M suggested alternative employment not acceptable as rate of pay decreased, travel time increased from 9 minutes to 31 minutes and he needed to learn furniture joinery – found role at alternative joinery company had same title, duties, hours of work and broadly similar location to applicant's business – reduced salary weighed against increased opportunities having learned furniture joinery – held alternative employment acceptable – held appropriate to reduce redundancy pay entitlement to three weeks' pay

C2022/5550 [2022] FWC 2830
Millhouse DP Melbourne 27 October 2022

Brown & Anor v Woolworths Group Limited

TERMINATION OF EMPLOYMENT – incapacity – inherent requirements – representation – ss.387, 394, 596 Fair Work Act 2009 – applicants dismissed after refusing to be vaccinated against COVID-19 – applicants sought to be represented by person other than a lawyer or paid agent – s.596 of the Fair Work Act imposes specific requirements that must be satisfied before the normal position can be departed in respect to lawyers and paid agents – Commission rejected suggestion an applicant has unqualified right to be represented by a person other than a lawyer or paid agent – Commission retains discretion to allow a party to be represented [*Warrell*] – s.596 permission granted to lay representative – Commission observed applicants representative repeated arguments raised in previous matters which have been repeatedly rejected by the Commission – respondent introduced a policy requiring staff be vaccinated against COVID-19 subject to limited exceptions – applicants submitted that there was "no law" requiring them to comply with the policy – Commission observed requirements for vaccination policy must derive from the term implied into all contracts of employment that employees must follow the lawful and reasonable directions of their employer [*Mt Arthur Coal*] – rejected other arguments including inconsistency with the Australian Constitution and that no vaccines approved for general use – reasonableness of policy considered – the respondent argued that its vaccination policy was lawful and reasonable, based on the interaction of the respondent's employees with members of the public in addition to limitations of other control measures – found policy was reasonable – the respondent further submitted that it properly consulted with its employees about the policy prior to its introduction – Commission held that there was a substantial and wilful breach of the respondent's policy by both applicants – valid reason to dismiss both applicants – Commission found that both applicants notified of the valid reason for the dismissal – dismissal not harsh, unjust or unreasonable – application dismissed.

U2022/3299 and Anor [2022] FWC 2780
Easton DP Sydney 17 October 2022

Nightingale v Woolworths Group Limited t/a Woolworths Group

TERMINATION OF EMPLOYMENT – incapacity – inherent requirements – consultation – ss.387, 394 Fair Work Act 2009 – applicant dismissed after refusing to adhere to respondent's policy requiring employees to be vaccinated against COVID-19 – whether the respondent's vaccination policy was unlawful and unreasonable – Commission observed that requirements for the vaccination policy must derive from the term implied into all contracts of employment that employees must follow the lawful and reasonable direction of their employer [*Mt Arthur Coal*] – Commission further observed that such a direction could be issued/enforced once adequate

consultation from the employer has occurred – applicant submitted that there was a lack of consultation from the respondent since the respondent did not make it compulsory for staff to participate in the consultation stages of the policy – Commission rejected the applicant's argument – Commission held that it was sufficient for the respondent to invite rather than compel its employees to engage in the consultation process – also noted that it is not necessary that employers provide paid time for consultation particularly if a significant proportion of their workforce is part-time or casual – applicant also submitted that the policy did not provide adequate benefit or protection against COVID-19 – Commission also rejected this argument by noting that most of the respondent's employees work in public places within retail stores – Commission held the policy to be a lawful and reasonable direction – Commission also held that there was a substantial and wilful breach of the respondent's policy – valid reason to dismiss the applicant – Commission found that the applicant was notified of the valid reason for the dismissal – dismissal not harsh, unjust or unreasonable – application dismissed

U2022/3901 [2022] FWC 2848
Easton DP Sydney 24 October 2022

Hendricks v Catholic Education Western Australia

TERMINATION OF EMPLOYMENT – demotion – s.394 Fair Work Act 2009 – application to deal with unfair dismissal – applicant was employed by the respondent as a Mathematics teacher in 2017 – in 2018 the applicant was appointed to the role of Head of Mathematics – in September 2021 the applicant was demoted from this role which he claims involved a significant reduction in his remuneration and duties, which amounted to him being dismissed – the respondent raised a jurisdictional objection that the applicant was not dismissed and was merely demoted, however later withdrew this objection – the applicant submitted that his dismissal was unfair because his Contract Agreements stipulated that continuation of his role as Head of Mathematics was subject to review and he understood that should a positive formative review be received, then he would remain in his position – in August 2021 a review of the applicant's performance as the Head of Mathematics was released – the applicant gave no weight to the comments recorded in the review which were unfavourable to him – the respondent viewed the comments as seriously problematic – in September 2021 the respondent advised the applicant that he would not be offered a third term of his contract as the Head of Mathematics – Commission was satisfied that the reasons for the applicant's dismissal were valid reasons to do with his conduct – Commission found that the applicant was notified of the reasons for his dismissal both orally and by letter, however the notification was after the decision to dismiss had been made – Commission found that the applicant did not have an opportunity to respond to the reasons for which he was dismissed before the decision was made – Commission found that the applicant was not refused a support person to be present at any discussions relating to dismissal – Commission found that the applicant had not received any warnings about his unsatisfactory performance before his dismissal – Commission found that to the extent that there were deficiencies in the procedure followed in effecting dismissal, this was because the decision to not provide the applicant with a further term as Head of Mathematics was recognised by the respondent as a demotion and not a dismissal – Commission recognised that throughout his term as Head of Mathematics, the applicant was not acting with malice but for his own reasons at times chose to act with little regard for his duty to his employer and consequently was dismissed – Considering all the circumstances of the case, Commission was not satisfied that the applicant's dismissal was harsh, unjust or unreasonable

U2022/832 [2022] FWC 2702
Williams C Perth 12 October 2022

Ismail v Safico P/L t/a Smokemart

TERMINATION OF EMPLOYMENT – Small Business Fair Dismissal Code – ss.23, 394

Fair Work Act 2009 – application for unfair dismissal remedy – applicant employed as casual employee in respondent's tobacco retail business – applicant summarily dismissed for serious misconduct following exchange with respondent – applicant sought unfair dismissal remedy – applicant contended respondent was not a small business employer for the purposes of the FW Act – respondent raised jurisdictional objection and submitted it was a small business employer – respondent further submitted applicant's conduct was sufficiently serious to justify dismissal – Commission considered two elements: whether respondent was a small business employer; and whether applicant's conduct was sufficiently serious to justify dismissal in compliance with Small Business Fair Dismissal Code – Commission considered the meaning of 'small business employer' under s.23 FW Act – associated entities are 'taken to be one entity' under s.23(3) of the FW Act – applicant submitted respondent was an associated entity of a larger umbrella corporation, SEPL P/L- if SEPL P/L was considered an associated entity, respondent would have more than 15 employees and would not be considered a small business – Commission considered nature of relationship and extent of control between respondent and SEPL P/L – applicant submitted SEPL P/L controlled the respondent for purposes relevant to s.50AA and s.50AAA(3) of the Corporations Act – for purposes under s. 50 AA of the Corporations Act, Commission considered whether SEPL P/L had influence and/or control over the respondent's financial and operating policies – respondent submitted SEPL P/L exerted no control over their daily operations – no common ownership or board of directorship between companies – SEPL P/L has no investments in the respondent – Commission considered two factors that might point towards finding an associated entity: an arrangement whereby SEPL P/L and applicant engage jointly for purposes of buying from suppliers; and familial connections between ownership of entities – these factors were not sufficient in establishing an associated entity as they did not point to SEPL P/L having practical or contractual influence on respondent's financial or operating policies – Commission found respondent was a small business employer within the meaning of the FW Act – Commission considered whether dismissal complied with the Small Business Fair Dismissal Code – Commission considered whether respondent held requisite belief conduct was sufficiently serious to justify summary dismissal and this belief was based on reasonable grounds [*Pinawin*] – Commission considered whether conduct of the applicant matter bore a sufficient connection with the 'employee's duty of fidelity and good faith' to constitute reasonable grounds – respondent provided evidence that the applicant made disparaging statements about respondent's honesty and integrity, refused to move store locations and refused to leave store when directed – Commission accepted respondent's evidence and found this reasonably constituted misconduct – dismissal consistent with Small Business Fair Dismissal Code – application dismissed.

U2022/4188 [2022] FWC 2349
Hampton C Adelaide 19 October 2022

Qenos P/L

INDUSTRIAL ACTION – suspension of protected industrial action – endangering life – s.424 Fair Work Act 2009 – applicant manufactures plastics from ethylene, a by-product of fractionation of natural gas liquids (NGL) – is the only facility which receives ethylene from the Long Island Point facility – applicant's employees were covered by the *Qenos Altona Enterprise Agreement 2018* with a nominal expiry of 30 June 2022 – bargaining for a new agreement between Australian Workers' Union (AWU) and applicant commenced in April 2022 – on 25 September 2022 AWU gave notice to applicant that employees covered by proposed agreement were to undertake protected industrial action in the form of stoppage for indefinite period from 3 October 2022 – applicant took employer response action in form of a lockout for all employees covered by proposed agreement – both forms of action are protected industrial action and comply with Fair Work Act – applicant applied to Commission on 6 October 2022, to suspend or terminate the employee industrial action on the grounds of it threatening to endanger the welfare of the population or part of it – on 7 October 2022 AWU notified applicant that it would withdraw employee action if applicant ceased the employer action and withdrew application

with Commission – applicant did not withdraw application or cease employer response action – applicant no longer sought relief for employee claim action but the grounds on which the relief was sought had not changed – evidence provided outlined the impact of the applicant's facility not receiving ethylene from the Long Island Point facility which is not able to store ethylene itself – if the Long Island Point facility cannot dispose of NGL by-products, they will need to cease supplying natural gas to the East Coast Gas Grid which services Tasmania, Victoria and New South Wales for domestic and commercial use – Commission observed this could have devastating effect and that the threat is real – parties have been bargaining for approximately 6 months having a number of bargaining meetings – Commission satisfied that the employer claim action was industrial action – impact of industrial action may not be at the point of endangerment but could be a real threat – Commission satisfied that s.424 requirements have been met and required to terminate or suspend industrial action – Commission considered *Essential Energy* and noted that bargaining had been underway for a relatively short time period – whilst progress of bargaining was slow, this was not unusual and parties are seeking the assistance of the Commission in bargaining – Commission also considered the role of protected industrial action as part of bargaining process – Commission found that suspension of industrial action of applicant would allow parties to continue to bargain – Commission issued an order to suspend the protected industrial action by applicant for 30 days to provide parties an opportunity to resolve matters in dispute

B2022/1519 [2022] FWC 2727
Bissett C Melbourne 14 October 2022

Pillifeant v Boeing Defence Australia Ltd

TERMINATION OF EMPLOYMENT – incapacity – inherent requirements – s.394 Fair Work Act 2009 – application for unfair dismissal remedy – applicant worked as Senior Systems Engineer for respondent – respondent one of seven entities within Boeing Australia Holdings P/L (Boeing Australia) – Boeing Australia undertook comprehensive COVID-19 consultation including surveys and COVID-19 briefing from clinical immunologist covering efficacy of COVID-19 vaccines – Boeing Australia announced a group-wide COVID-19 policy (Policy) on 15 October 2021 – respondent, as part of Boeing Australia, was subject to the Policy – the Policy required employees be fully vaccinated or have a valid medical exemption – employees notified failure to comply could result in disciplinary action up to and including dismissal – applicant informed he needed to be fully vaccinated by 3 December 2021 or covered by a valid medical exemption – applicant provided medical exemption valid to 15 April 2022 – respondent worked with applicant to devise an Individual COVID-19 Safety Control Plan (ICCP) – ICCP agreed between parties – respondent contacted applicant in March 2022 as medical exemption due to expire in April 2022, applicant advised he did not intend to get vaccinated – applicant issued Policy non-compliance letter and directed to provide evidence of vaccination by 29 April 2022 – applicant did not comply with direction – show cause process commenced – applicant requested documents including risk assessment underlying the Policy – respondent provided documents and confirmed Policy had been developed considering all relevant laws – applicant dismissed on 23 May 2022 for failure to follow lawful and reasonable direction to comply with Policy – consideration of valid reason – Commission observed its role is to determine whether respondent had a reasonable and logical basis for its policy – found respondent undertook a comprehensive consultation process, particularly given the size of its enterprise – observed Commission has previously upheld safety and efficacy of COVID-19 vaccines [*Mount Arthur Coal*] – held implementation of the Policy was reasonable and logical – held respondent's direction that the applicant be vaccinated was a lawful and reasonable direction – applicant required to comply with direction but did not do so – failure to comply with the direction was a valid reason for dismissal – found applicant was aware that failure to comply with Policy could lead to termination – held applicant exercised decision for himself whether to be vaccinated – held valid reason for dismissal and fair process undertaken – dismissal not unfair – application dismissed.

U2022/6216 [2022] FWC 2340
Simpson C Brisbane 7 October 2022

Byles v Retailcorp P/L

TERMINATION OF EMPLOYMENT – small business employer – s.394 Fair Work Act 2009 – applicant worked for another business, Concrete Taxi, prior to employment by respondent – respondent purchased Concrete Taxi in July 2020 and applicant's employment transferred to respondent – applicant was employed by respondent as a call centre contact specialist for the business initially on a full-time basis – in October 2020 applicant was advised that she would need to reduce her hours of work by two days a week in order to accommodate a new employee to manage respondent's accounts – applicant initially raised an objection to this alteration but respondent advised her that it would reconsider this alteration when the business picked up – applicant noted that at the time of her termination her regular work days were Monday, Tuesday, Wednesday and that she sometimes worked Thursdays – prior to 27 April 2022 respondent requested applicant cover shifts on a temporary basis for a colleague who had recently resigned – on 27 April 2022 applicant and respondent exchanged a series of text message correspondences; applicant queried job advertisement which she believed jeopardised her employment, applicant did not intend to cover former colleague's shift on 28 April 2022 unless respondent confirmed her reinstatement to four days a week permanent employment – respondent submits that the applicant resigned from her employment given she had secured alternative part-time employment and she had engaged in serious misconduct by refusing to attend the cover shift – applicant denies having resigned and confirmed this with respondent via reply text message – Commission determined applicant was dismissed, rejected respondent submission on resignation by refusing to work cover shift – Commission considered whether applicant's dismissal was consistent with Small Business Fair Dismissal Code – applicant's dismissal compared to 'summary dismissal' as attested to by respondent – Commission determined that respondent did not hold a reasonable belief as a matter of fact that applicant's conduct in not seeking to attend a shift outside of their rostered hours and pursuant to a temporary shift cover agreement was so serious to justify immediate dismissal – dismissal was not consistent with Small Business Fair Dismissal Code – Commission accepted applicant was distressed when refusing to attend shift on 28 April 2022, this was not rendered to be a valid reason for summary dismissal – applicant did not have an opportunity to respond to the dismissal as decision for termination was already taken by respondent – applicant's dismissal was harsh, unjust and unreasonable – applicant unfairly dismissed within the meaning of s. 387 of Fair Work Act – remedy considered – reinstatement inappropriate – applicant awarded compensation.

U2022/5422 [2022] FWC 2537
Simpson C Brisbane 20 October 2022

Zapantis v Coles Supermarkets Australia P/L

TERMINATION OF EMPLOYMENT – incapacity – inherent requirements – s.394 Fair Work Act – application for unfair dismissal remedy – applicant, a System Optimisation Specialist who had worked for the respondent in various roles since 1981, had his employment terminated on or about 27 April 2022 – respondent submitted it had valid reasons to terminate applicant because he refused to follow a direction to comply with its Covid-19 vaccination policy and could not perform the inherit requirement of his role to work onsite – applicant challenged the reasonableness of the vaccination policy, where non-compliance with the policy was a valid reason for termination at time of dismissal and the view his role required him to work onsite – Commission considered s.385 of FW Act – found applicant dismissed – Small Business Fair Dismissal Code did not apply – not case of genuine redundancy – considered s.387 FW Act – found applicant's role required him to attend the respondent's worksites from time to time – found that due to CHO Directions that were in force at the time, including at the termination of the applicant's employment, respondent

would have been in breach of its legal obligations and exposed itself to significant financial penalties if it had allowed applicant to attend the workplace from 15 October 2021 – satisfied applicant not vaccinated and did not have a valid medical exemption – satisfied respondent's implementation of the Vaccination Policy and its subsequent directions to the applicant to comply with it was reasonable and lawful – satisfied applicant's failure to follow a lawful and reasonable direction to comply with the Respondent's Vaccination Policy was a valid reason for termination (Reason 1) – satisfied that applicant's refusal to comply with the CHO Directions meant he was unable to fulfil the inherent requirements of his role and this was a valid reason for termination (Reason 2) – satisfied respondent notified applicant via show cause letter on 13 April 2022 and meeting on 27 April 2022 of Reason 1 for termination – accepted that while applicant not expressly notified of Reason 2 for termination, he was notified of the substance of this reason because the respondent's Vaccination Policy, which was brought to the applicant's attention multiple times between 21 October 2021 and 27 April 2022, stated it was "an inherent requirement of all roles at Coles to attend your place of work, or another Coles site, regularly or from time to time." -satisfied applicant given opportunity to respond to reasons for dismissal – no unreasonable refusal to allow the applicant a support person during any discussions relating to dismissal – applicant was not dismissed for unsatisfactory performance – neither the size of the enterprise nor any absence of human resource management specialists or expertise had any impact on the procedures followed in effecting the applicant's dismissal – Commission took into account that applicant was paid 5 weeks' notice and applicant's submissions that the termination was harsh on account of his personal circumstances, including his owed long service leave entitlements and that he would not have been a health risk to others if put on long service leave, long-standing and largely unblemished employment with respondent, his age, his medical condition, difficulties he is likely to encounter finding a new job – Commission found dismissal not harsh, unjust or unreasonable – application is dismissed.

U2022/6566		[2022] FWC 2707
Cirkovic C	Melbourne	11 October 2022

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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.fcfcoa.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

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