



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

JUSTICE HATCHER, PRESIDENT

AM2026/10, AM2026/11, AM2026/12

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

**Application to vary 27 modern awards with respect to vehicle allowances
(AM2026/10)**

**Application by United Firefighters' Union of Australia
(AM2026/11)**

**Application by the United Workers' Union
(AM2026/12)**

**Re Aboriginal and Torres Strait Islander Health Workers and Practitioners and
Aboriginal Community Controlled Health Services Award 2020**

Re Aged Care Award 2020

Re Air Pilots Award 2020

Re Aircraft Cabin Crew Award 2020

Re Airline Operations Ground Staff Award 2020

Re Ambulance and Patient Transport Industry Award 2020

Re Amusement, Events and Recreation Award 2020

Re Animal Care and Veterinary Services Award 2020

Re Business Equipment Award 2020

Re Cemetery Industry Award 2020

Re Children's Services Award 2010

Re Cleaning Services Award 2020

Re Clerks Private Sector Award 2020

Re Corrections and Detention (Private Sector) Award 2020

Re Fast Food Industry Award 2020

Re Fitness Industry Award 2020

Re Fire Fighting Industry Award 2020

Re Food, Beverage and Tobacco Manufacturing Award 2020

Re Gardening and Landscaping Industry Award 2020

Re Funeral Industry Award 2020

Re General Retail Industry Award 2020

Re Hair and Beauty Industry Award 2020

Re Health Professionals and Support Services Award 2020

Re Hospitality Industry (General) Award 2020

Re Live Performance Award 2020

Re Miscellaneous Award 2020

Re Nurses Award 2020

Re Pest Control Industry Award 2020

Re Pharmacy Industry Award 2020

Re Passenger Vehicle Transportation Award 2020

Re Pastoral Award 2020

Re Registered and Licensed Clubs Award 2020

Re Security Services Industry Award 2020

Re Social, Community, Home Care and Disability Services Industry Award 2020

Re Supported Employment Services Award 2020

Re Vehicle Repair, Services and Retail Award 2020

Re Victorian Government (Early Childhood Education Employees) Award 2016

Re Victorian Local Government Award 2015

Re Water Industry Award 2020

Re Wine Industry Award 2020

2.00 PM, THURSDAY, 16 APRIL 2026

PN1

JUSTICE HATCHER: Good afternoon. I'll take the appearances. Ms Peldova-McClelland, you appear for the ACTU?

PN2

MS PELDOVA-McCLELLAND: I do, your Honour, alongside Mr Kentish, thank you.

PN3

JUSTICE HATCHER: Thank you. Mr van Rensburg, you appear for the SDA?

PN4

MR VAN RENSBURG: Yes, your Honour.

PN5

JUSTICE HATCHER: Mr Yiallouros, you appear for the ANMF?

PN6

MR YIALLOUROS: Yes, your Honour.

PN7

JUSTICE HATCHER: Ms Owens-Strauss, you appear for the Transport Workers' Union?

PN8

MS OWENS-STRAUSS: Yes, thank you, your Honour.

PN9

JUSTICE HATCHER: Ms van Gent, you appear for the United Workers' Union?

PN10

MS van GENT: Yes, your Honour.

PN11

JUSTICE HATCHER: Mr Duncalfe, you appear for the AWU?

PN12

MR DUNCALFE: Yes, your Honour.

PN13

JUSTICE HATCHER: Mr Matthews, you appear for the Health Services Union?

PN14

MR MATTHEWS: Yes, your Honour.

PN15

JUSTICE HATCHER: Ms Presdee, you appear for the Australian Manufacturing Workers' Union?

PN16

MS PRESDEE: Yes, your Honour.

PN17

JUSTICE HATCHER: Ms Thomas, you appear for the Australian Services Union?

PN18

MS THOMAS: Yes, your Honour.

PN19

JUSTICE HATCHER: Mr Bakri, you appear for the United Firefighters' Union?

PN20

MR BAKRI: Yes, thank you, your Honour.

PN21

JUSTICE HATCHER: And Ms Mehta, you appear for the Australian International Pilots' Association?

PN22

MS MEHTA: Yes, thank you, your Honour.

PN23

JUSTICE HATCHER: Now, Ms Bhatt, you appear for the Australian Industry Group?

PN24

MS BHATT: Yes, your Honour.

PN25

JUSTICE HATCHER: Ms Lawrence, you appear for Australian Business Industrial and the New South Wales Business Chamber?

PN26

MS LAWRENCE: Yes, your Honour.

PN27

JUSTICE HATCHER: Mr Schmitke, you appear for the Australian Chamber of Commerce and Industry?

PN28

MR SCHMITKE: Thank you, yes, Your Honour.

PN29

JUSTICE HATCHER: Mr Rogers, you appear for the Pharmacy Guild of Australia?

PN30

MR ROGERS: Yes, thank you, your Honour.

PN31

JUSTICE HATCHER: Mr Pyers, you appear for the National Farmers' Federation?

PN32

MR PYERS: That's correct, your Honour, yes.

PN33

JUSTICE HATCHER: Ms Jongsma, you appear for the Bus Industry Confederation?

PN34

MS JONGSMA: Yes, your Honour.

PN35

JUSTICE HATCHER: Mr Sommerton, you appear for the Council of Small Business Organisations of Australia?

PN36

MR SOMMERTON: That's right, your Honour, thank you.

PN37

JUSTICE HATCHER: And Mr Martin, you appear for the various motor trades organisations.

PN38

MR MARTIN: Yes, thank you, your Honour, and I (indistinct).

PN39

JUSTICE HATCHER: Yes, thank you. Is that all the appearances? All right, well, I'll ask the ACTU to speak first about how they say these matters should be dealt with. But before I do so I just want to raise one possibility for the parties to consider and make submissions about and that is whether these applications having been made on a common basis, whether in fact the - in respect of any other remaining awards that are not yet the subject of applications, whether the Commission of its own initiative should call on those matters for reconsideration as to their travel reimbursement allowances so that all awards can be dealt with at the same time and on an equivalent basis.

PN40

So the parties can comment upon that in due course. All right, so, Ms Peldova-McClelland, do you want to go first?

PN41

MS PELDOVA-McCLELLAND: Thank you, your Honour, yes, I certainly can. So obviously we've filed a number of applications on Tuesday this week - 27 - and they have been followed by subsequent applications filed by the UWU today, and the AMWU as well. I believe that takes us to a total of 41 awards that have applications in respect of them in the proceeding.

PN42

And as we stated in our letter and in the emails of the unions that were filed subsequent to that letter, we are seeking that all of these applications be joined together and dealt with together. We have provided some proposed directions to your chambers and to the major employer groups who we were aware would be

participating today. Prior to the directions today, we are proposing a compressed timetable that reflects the urgent nature of these applications and the need to give relief to workers.

PN43

I can speak further to those proposed directions either now or in due course, your Honour, but suffice to say we've had some preliminary discussions with employer groups. That caused us to amend our original, extremely compressed timetable to a slightly less compressed timetable, to give responding parties more time to file materials; a period of two weeks, rather than just over one week. In terms of the matter your Honour raises, we did flag this in our letter as well, that the Commission might be minded to initiate proceedings on its own motion for awards that are not the subject of applications, but that do have a vehicle allowance in them.

PN44

We think this is a prudent course of action, to ensure there are no gaps in these applications. We don't have a strong view on whether that should be done now, and those matters joined and dealt with all together, or whether the result of this proceeding could be flowed on to other awards once the decision is made. So we don't have a strong view either way. However, we would say that if that was to occur now, that it doesn't slow down the proposed timetable and dealing with this matter on an urgent basis.

PN45

JUSTICE HATCHER: Are you able to say whether it's likely that there will be further applications made in any event in the next week or so?

PN46

MS PELDOVA-McCLELLAND: Those are all the applications I am aware of, your Honour. So all of the applications I've been aware of, that were forthcoming, have now been made, so I'm not aware of any others.

PN47

JUSTICE HATCHER: All right. Thank you. All right. So does any other union which is an applicant or supports the applications wish to say anything different to what Ms Peldova-McClelland has just said? All right. So we'll turn to the employer side. Ms Bhatt, what do you want to say?

PN48

MS BHATT: Yes. Thank you, your Honour. The proposed directions were the subject of some discussion between our organisation and Ms Peldova-McClelland. We have some concern about the ability to file material in reply within the time frame that's contemplated, particularly because, since those discussions, I've become aware of certain additional applications that have been filed by ACTU affiliates in respect of awards in which we do have an interest.

PN49

It appears at first blush that we have an interest in at least 21 of the 41 awards that are the subject of the various applications. And obviously, that concern might be compounded if the Commission moves to deal with a broader range of awards of

its own motion at the same time, though I say that, your Honour, without having reviewed what all of those awards are and how many of them we have an interest in. I think we would be more confident in our ability to comply with the directions if, for example, provided an additional week, that is, three weeks to file material in reply.

PN50

Can I also note that the proposed directions propose that the matter be listed for hearing during the week of 11 May, which would also, I anticipate, pose some difficulty for us. There is another matter listed before the Commission. It's the application in matter MS2024/3 during that week, and we will be appearing in those proceedings too. That's all I wish to say at this stage.

PN51

JUSTICE HATCHER: All right. Just give me a second. Yes. All right. Who wants to say anything else about the matter? Ms Lawrence?

PN52

MS LAWRENCE: Your Honour, we were also subject to some discussions with the ACTU prior to appearing today. We do, however, hold the same reservations as Ms Bhatt has just articulated. We would also be in a position where we would be more confident that we would be able to comply if an additional week was provided. And we have a similar concern, that we do have an interest in the majority of the awards for which applications have been made.

PN53

And given that, and given the other proceedings that seem to perhaps also align with that date of 11 May, that, in moving it by one week, to provide an additional week to respond, and then the hearings the subsequent week, would be more achievable from our perspective.

PN54

JUSTICE HATCHER: I mean, to the extent there might be additional awards, are they likely to raise any discrete issue that's not already raised by the application?

PN55

MS LAWRENCE: To be honest, at this stage, we're not entirely certain whether there's any nuances that we need to take into account between the awards. To be honest, we've only reviewed those that we received yesterday. We haven't yet made it through the additional ones. It's probably also worth commenting, just in respect of your question about the Commission adding in further awards on its own initiative, we don't hold any concerns with that.

PN56

I think the ACTU's comments with respect to whether that's done afterwards or before, again, that doesn't cause concern. But at this stage, we haven't had time to consider whether there are nuances which would mean that we do need to put on different material for different awards at this stage, unfortunately.

PN57

JUSTICE HATCHER: All right. Thank you. Mr Schmitke.

PN58

MR SCHMITKE: Thank you, your Honour. I don't think I can add anything more to the comments of my employer colleagues already made, save to note that we are also involved in that proceeding of the week of 11 May, and we also have an interest in a significant number, if not all of the awards which are subject to the application.

PN59

JUSTICE HATCHER: All right. Thank you. Does any other employee representative want to say anything different to what's just been put by Ms Bhatt, Ms Lawrence and Mr Schmitke? No. All right. Do you want to say anything in response, Ms Peldova-McClelland?

PN60

MS PELDOVA-McCLELLAND: Yes. Thank you, your Honour. Look, this is an urgent application. In our submission, this is not going to be an evidence-heavy case. The proceeding is fairly straightforward, and we don't envisage the need to put on particularly detailed submissions or evidence. We are requesting the matter be dealt with in an expedited fashion, so that relief can be brought to workers sooner than they would otherwise have received it, which would be from July, and to ensure they're not out of pocket for doing their jobs for any longer than it's necessary, and, in our submission, that requires a compressed timetable.

PN61

We have tried to accommodate the concerns raised by the employer groups, by providing an additional week for their responsive evidence. And if it's helpful, I can speak to what we are anticipating at this stage, in terms of the evidentiary case.

PN62

JUSTICE HATCHER: That might be useful. That is - conceptually, the case is fairly straightforward. That's not to say what the outcome is, but the concept of the application is fairly straightforward. So what's for an extensive evidentiary case?

PN63

MS PELDOVA-McCLELLAND: Yes. Thank you, your Honour. So much of what we will rely on is a matter of public record, that is, being monitored and documented by third parties such as the ACCC and the AIP. This is going to be the substance of the case, and it will be supplemented by some witnesses who are exposed to this issue in their work and can speak to the impact that this is having on them.

PN64

We don't have a definitive number of witnesses, but from my conversations with affiliates, we are anticipating filing a handful; likely a maximum of 10, but also likely less. Those statements are there to provide an idea of the impact this is having on workers on the ground, on top of the obvious and straightforward propositions that we will put in submissions. And we are limiting that evidentiary case, in light of the urgent nature of the application.

PN65

JUSTICE HATCHER: Well, do you really need two weeks to do that?

PN66

MS PELDOVA-McCLELLAND: I think we've got one week under the directions, your Honour, until the end of next week.

PN67

JUSTICE HATCHER: Sorry. I've lost track of time. Yes, you're quite right. All right. So I just want to go back to the employer representatives and I proceeded upon the assumption that the applications are opposed. If I'm wrong about that can somebody tell me?

PN68

MS LAWRENCE: Your Honour, we'd perhaps prefer the term, 'responded to'.

PN69

JUSTICE HATCHER: Sorry?

PN70

MS LAWRENCE: I think, your Honour, at least from our perspective we'd prefer to that say that we're responding to it. We do have concerns with certain elements of the way in which the claim is being brought. It's not so much opposition to the concept that there needs to be some form of relief. If there's a better way of construing it than opposition we'd prefer that but I appreciate that that might otherwise (indistinct) - - -

PN71

JUSTICE HATCHER: No, I understand. I understand. All right. I'll just go back to you one more time, Ms Peldova-McClelland. There is a difficulty in the week beginning the 11th but I will consider what's been put and try to make some directions which suit everybody. But if you want to have some further conversations with the respondents in the very near future to see if you can come up with some mutually agreeable solution to that that would be appreciated. Otherwise the Commission will work out its own solution.

PN72

MS PELDOVA-McCLELLAND: Certainly, your Honour, we can do that very quickly and write to your chambers. What I would say just here and now is if that week was going to be a problem of the 11th, we would propose that the matter be listed in the following week, beginning the 18th - yes.

PN73

JUSTICE HATCHER: Yes, all right. Well, if you want to have a dialogue with the respondents about that then you can provide me with advice. Otherwise, I can indicate that I'll consider what's been put and I'll endeavour to issue directions and a listing before the end of the week. So unless there's anything further, thank you for your attendance and we'll now adjourn.

ADJOURNED TO A DATE TO BE FIXED

[2.23 PM]