



# DETERMINATION

*Fair Work Act 2009*

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

**Variation on the Commission’s own motion – flexible work and unpaid parental leave amendments**  
(AM2023/8)

**PROFESSIONAL DIVING INDUSTRY (RECREATIONAL) AWARD 2020**  
[MA000109]

Diving services

JUSTICE HATCHER, PRESIDENT  
VICE PRESIDENT CATANZARITI  
VICE PRESIDENT ASBURY

SYDNEY, 10 JULY 2023

*Variation on the Commission’s own motion – Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022 – consequential amendments – flexible working arrangements – unpaid parental leave.*

A. Further to the decision issued by the Full Bench on 30 June 2023 [[\[2023\] FWC FB 107](#)], the above award is varied as follows:

1. By deleting clause “6—Requests for flexible working arrangements” and inserting the following:

## **6. Requests for flexible working arrangements**

Requests for flexible working arrangements are provided for in the NES.

NOTE: Disputes about requests for flexible working arrangements may be dealt with under clause 28—Dispute resolution and/or under section 65B of the Act.

2. By deleting the words “section 65(5)” appearing in the note to clause 19.5(j) and inserting “section 65A(3)”.

3. By inserting the following note as a new paragraph at the end of clause “22—Parental leave and related entitlements”:

NOTE: Disputes about requests for extensions to unpaid parental leave may be dealt with under clause 28—Dispute resolution and/or under section 76B of the Act.

4. By inserting the following notes as new paragraphs at the end of clause “28—Dispute resolution”:

NOTE 1: In addition to clause 28, a dispute resolution procedure for disputes regarding the NES entitlement to request flexible working arrangements is contained in section 65B of the Act.

NOTE 2: In addition to clause 28, a dispute resolution procedure for disputes regarding the NES entitlement to request an extension to unpaid parental leave is contained in section 76B of the Act.

5. By updating the cross-references accordingly.

B. This determination comes into operation on 1 August 2023. In accordance with s 165(3) of the *Fair Work Act 2009* this determination does not take effect in relation to a particular employee until the start of the employee’s first full pay period that starts on or after 1 August 2023.



PRESIDENT