



STATEMENT

Fair Work Act 2009

s.157—Application to vary or revoke a modern award

Restaurant & Catering Industrial (AM2021/58)

Restaurants

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT CLANCY
COMMISSIONER BISSETT

MELBOURNE, 5 JULY 2021

Industrial relations reform working groups – letter from Minister – award flexibility – exemption rates – classification structures – Restaurant Industry Award 2020 – application received.

[1] On 23 April 2021, RCI made an [application](#) to vary the Restaurant Award.¹ The application seeks to vary the Restaurant Award by including a new Schedule R in order to assist employers and employees recover from the COVID-19 pandemic. The proposed schedule includes:

- A simplified classification structure
- Exemption rates, and
- A ‘substitute’ allowance in substitution for certain work and expense related allowances.

[2] On 3 June 2021 we issued a [Statement](#)² (June Statement) setting out our *provisional* view that the Restaurant Award be varied in the terms set out in the draft determination at Attachment A of the June Statement.

[3] The June Statement directed any interested party to file submissions and evidence in response to our *provisional* view by 28 June, and in reply, by 2 July 2021.

[4] On 28 June 2021 we received [correspondence](#) from the United Workers’ Union (UWU) seeking an extension to file submissions by 29 June. The extension was granted.

¹ The procedural history behind this matter is summarised in the June Statement, see [1]-[12].

² [\[2021\] FWCFB 3222](#).

[5] In accordance with the directions, we received the following:

- [correspondence](#) from NSW Business Chamber and Australian Business Industrial;
- [Submission](#) from the UWU, attaching the witness statement of Ms Angela Knox; and
- [Submission in reply](#) from Restaurant and Catering Industrial.

[6] In its correspondence, NSW Business Chamber and Australian Business Industrial confirmed that it endorsed the proposal to vary the Restaurant Award as set out in Attachment A to the June Statement.

[7] In the June Statement we provided access to information notes prepared by the Commission regarding the COVID-19 situation and the Accommodation and food services industry. Updated information notes regarding the COVID-19 situation have been published, and an updated note regarding the Accommodation and food services will be published concurrently with this Statement:

- [Information note – COVID-19 situation update](#)
- [Information note – Government responses to COVID-19 pandemic](#)
- [Information note – Accommodation and food services](#)

[8] Any party who wishes to provide comments on the updated information notes is to file short written submissions by no later than **4PM (AEST), Wednesday 7 July 2021**.

[9] In the June Statement we indicated that absent a specific request for an oral hearing, the matter would be determined on the papers. No party requested an oral hearing or indicated that it wished to cross-examine any of the witnesses. We shall proceed to determine the matter on the papers.

PRESIDENT

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