



# DECISION

*Fair Work Act 2009*

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

## **Construction, Forestry and Maritime Employees Union**

(AM2023/26)

## **PORTS, HARBOURS AND ENCLOSED WATER VESSELS AWARD**

**2020**

[MA000052]

Port authorities

JUSTICE HATCHER, PRESIDENT

SYDNEY, 22 DECEMBER 2023

*Application to vary clause A.3 in the Ports, Harbour and Enclosed Water Vessels Award 2020 relating to penalty rates for casual employees.*

[1] In my statement<sup>1</sup> of 6 December 2023 (the Statement), I expressed the provisional view that clauses A.3.1 and A.3.2 of the *Ports, Harbours and Enclosed Water Vessels Award 2020* (the Award) should be varied in the terms set out in Appendix A of that Statement because the discrepant pay rates constituted an error for the purpose of s 160. Interested parties were invited to respond to my provisional view by 20 December 2023.

[2] No submissions were received. Accordingly, I confirm my provisional view at paragraph [10] of the Statement. I consider the variation necessary pursuant to s 160 of the *Fair Work Act 2009* (Cth) to remove the identified error.

[3] A determination varying clauses A.3.1 and A.3.2 of the Award will be issued with this decision. The determination will operate from 8 January 2024.



PRESIDENT

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<sup>1</sup> [\[2023\] FWC 3273](#)