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Sent: Monday, 4 May 2020 11:20 AM
To:
Subject: FWC Update – JobKeeper disputes benchbook, Rules change and COVID-19 applications

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Fair Work Commission
Australia's national workplace relations tribunal

JobKeeper disputes benchbook, Rules change and COVID-19 applications

JobKeeper disputes benchbook published

The Fair Work Commission has published a new [JobKeeper disputes benchbook](#) to provide information about the Commission's role in dealing with JobKeeper dispute applications under the *Fair Work Act 2009*.

Changes to the Fair Work Commission Rules 2013 & forms updated

On 1 May 2020, changes to the **Fair Work Commission Rules 2013** came into operation. These changes alter:

- the rules that required a statutory declaration to be lodged with the Commission, to instead require lodgment of a signed, but not witnessed, declaration
- the rule that requires notice that a lawyer or paid agent acts for a party to be given, to make giving such notice voluntary and the responsibility of the party, and
- the way in which bargaining representatives are invited to advise the Commission about whether they support the approval of an enterprise agreement or disagree with statements in an employer declaration lodged in relation to the agreement.

Updated forms incorporating the amendments have been published on the [Forms](#) page of our website. More information about the [changes to the Rules and Forms](#) is available on the Commission's website.

Recent significant decisions

Educational Services (Schools) General Staff Award 2010

Independent Schools Victoria (ISV) and Independent Education Union (IEU) made a joint application to vary the Schools General Staff Award to insert a new Schedule J that:

- allows an employer to direct an employee to reduce their hours by up to 25% (subject to a number of protections)
- contains a clause regarding operational flexibility, and
- provides that any dispute regarding the operation of the Schedule may be referred to the Commission in accordance with clause 9 of the award.

Interested parties were given an opportunity to make submissions in relation to the application and no opposition was received.

On 24 April 2020, a Full Bench of the Commission **granted the claim and varied the Schools General Staff Award** to include Schedule J. The variation will operate until 1 August 2020, unless extended on application.

Urgent applications

Fast Food Industry Award 2010

An application to vary the Fast Food Industry Award 2010 was filed by Ai Group on Friday, 1 May 2020. The application is supported by the Australian Council of Trade Unions and the Shop, Distributive and Allied Employees' Association.

A **statement was issued on 3 May 2020** setting out the Commission's provisional views regarding the variation.

The application seeks to insert a new Schedule – Schedule H: Award flexibility during the COVID-19 pandemic – into the Fast Food Award. Schedule H is expressed to operate for a period of 3 months.

There are three key components of proposed Schedule H:

- a temporary and alternate scheme for part time employment
- clause H.8 provides that, in certain circumstances an employer may request that an employee take paid annual leave. The employee is obliged to consider and not unreasonably refuse the request
- close down: subject to a series of safeguards clause H.9 enables an employee to require an employee to take annual leave as part of a close down of its operations or part of its operations.

Submissions supporting or opposing the **provisional** views are due by **12 noon on Tuesday, 5 May 2020**.

A Full Bench will determine this matter without holding a hearing unless a submission is received opposing the **provisional** views. In the event that a submission is received opposing the **provisional** views, the matter will proceed to a hearing at **2pm on Tuesday, 5 May 2020** by telephone.

Social, Community, Home Care and Disability Services Industry Award 2010

The Australian Services Union, Health Services Union, United Workers Union and the National Disability Service made a joint application to vary the Social, Community, Home Care and

Disability Services Industry Award 2010 to include a new allowance to be paid to an employee when they are required to work with a client who:

- is required by government or medical authorities to self-isolate in response to the COVID-19 Pandemic
- is required on the advice of a medical practitioner to self-isolate in response to the COVID-19 Pandemic
- has COVID-19 or is reasonably suspected to have COVID-19.

On 28 April 2020, the Commission **issued directions** calling for submissions in support of the application by 29 April 2020 and submissions opposing the application by 1 May 2020. The application is listed for hearing today, Monday, 4 May 2020.

Health Sector Awards

On 28 April 2020, the ACTU filed a **proposed timetable** for the hearing of this ongoing matter. The Commission convened a conference of interested parties on 30 April 2020 to discuss the proposed timetable; a **transcript** of this conference has been published.

A **statement and directions issued on 1 May 2020** directed interested parties to file an outline of submissions in support of the applications, witness statements and any other material by **Monday, 11 May 2020**. A mention will be listed after this date to finalise further directions.

All material relevant to this matter will be published on the **Health sector awards** page of the Commission's website.

Find out more

Visit the **Coronavirus (COVID-19) updates & advice** page on our website for information about specific application types and any changes to our operations in response to COVID-19.

To find out more about measures taken to restrict gatherings and non-essential business, and support for businesses, please read the latest **Information note – Government responses to COVID-19 pandemic (PDF)**.

4 May 2020

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