

From: Chambers - Hatcher J <Chambers.Hatcher.J@fwc.gov.au>
Sent: Monday, February 12, 2024 9:26 AM
To: Luis Izzo <luis.izzo@ablawyers.com.au>
Cc: Awards <Awards@fwc.gov.au>; Victor Song <Victor.Song@ablawyers.com.au>; Sunil Kemppi <skemppi@actu.org.au>; Trevor Clarke <tclarke@actu.org.au>; 'Michael Robson' <mrobson@asu.asn.au>; Corey Rabaut <CRabaut@asu.asn.au>; Sue-Anne Burnley <sue-anne@sda.org.au>; Gavin van Rensburg <gavin@sda.org.au>; 'Annette van Gent' <annette.vangent@unitedworkers.org.au>; Victor Song <Victor.Song@ablawyers.com.au>; Ruchi Bhatt <ruchi.bhatt@aigroup.com.au>; 'Caroline Beasley' <Caroline.Beasley@aigroup.com.au>; Jessica Tinsley <Jessica.Tinsley@acci.com.au>; Sarah Swan <sswan@qha.org.au>; Melissa Butters <mbutters@qha.org.au>; 'ciaran.strachan@awcc.asn.au' <ciaran.strachan@awcc.asn.au>; 'Lindsay Carroll' <l.carroll@nationalretail.org.au>; 'Kelly Thomas' <kthomas@vthc.org.au>; Stephanie Johnson <stephanie.johnson@corrs.com.au>; 'martin.stirling@mgaiba.org.au' <martin.stirling@mgaiba.org.au>; 'legal@mga.asn.au' <legal@mga.asn.au>
Subject: RE: Consultation Sessions - AM2023/21 - Modern Awards Review - Making Awards Easier to Use

OFFICIAL

Dear Mr Izzo,

The President will permit ABI and Business NSW to add this to their proposals. Please file a draft determination and any accompanying submissions by **4:00 pm (AEDT) on Wednesday, 14 February 2024**.

Edrea Venal (she/her)
Associate to Justice Hatcher, President
Member Support Team, Tribunal Support Branch



Fair Work Commission

Australia's national workplace relations tribunal

T (02) 9308 1812

E chambers.hatcher.j@fwc.gov.au

Level 11, Terrace Tower
80 William Street, EAST SYDNEY NSW 2011
In the Sydney office on Tuesdays (usually!)



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From: Luis Izzo <luis.izzo@ablawyers.com.au>
Sent: Monday, February 12, 2024 9:16 AM
To: Chambers - Hatcher J <Chambers.Hatcher.J@fwc.gov.au>; Sunil Kemppi

<skemppi@actu.org.au>; Trevor Clarke <tclarke@actu.org.au>; 'Michael Robson' <mrobson@asu.asn.au>; Corey Rabaut <CRabaut@asu.asn.au>; Sue-Anne Burnley <sue-anne@sda.org.au>; Gavin van Rensburg <gavin@sda.org.au>; 'Annette van Gent' <annette.vangent@unitedworkers.org.au>; Victor Song <Victor.Song@ablawyers.com.au>; Ruchi Bhatt <ruchi.bhatt@aigroup.com.au>; 'Caroline Beasley' <Caroline.Beasley@aigroup.com.au>; Jessica Tinsley <Jessica.Tinsley@acci.com.au>; Sarah Swan <sswan@qha.org.au>; Melissa Butters <mbutters@qha.org.au>; 'ciaran.strachan@awcc.asn.au' <ciaran.strachan@awcc.asn.au>; 'Lindsay Carroll' <l.carroll@nationalretail.org.au>; 'Kelly Thomas' <kthomas@vthc.org.au>; Stephanie Johnson <stephanie.johnson@corrs.com.au>; 'martin.stirling@mgaiba.org.au' <martin.stirling@mgaiba.org.au>; 'legal@mga.asn.au' <legal@mga.asn.au>
Cc: Awards <Awards@fwc.gov.au>; Victor Song <Victor.Song@ablawyers.com.au>
Subject: RE: Consultation Sessions - AM2023/21 - Modern Awards Review - Making Awards Easier to Use

OFFICIAL

Dear Ms Venal

I refer to the above proceedings and to the Full Bench's request for proposals to make awards easier to use by 22 December 2023.

ABI and BNSW complied with the directions. However, we were made aware late last week of a discrete issue affecting the *General Retail Award 2020 (GRIA)* which appears to fall within the scope and purpose of these proceedings.

Specifically, there are divergent views in relation to clauses 15.7-15.9 of the GRIA and to whom the clauses apply. In particular, we are aware that there are differing views regarding whether the clauses apply to casual employees or not. These divergent views were partially identified in *Award flexibility-General Retail Industry Award 2020 [2021] FWCFB 3571* at [54]:

[54] NANA submits that rostering requirements in clause 15.9, which it believes do not apply to casual employees, should be amended to explicitly articulate where a sub-clause applies to full-time employees and when it applies to both full-time and part-time employees. [38] The SDA opposes this change and does not agree that casuals are never part of a roster.

However, the issue was not clarified as part of those proceedings.

There continue to be differing views expressed to ABI/BNSW in relation to whether clauses 15.7-15.9 of the GRIA apply to casuals. ABI and BNSW support the position of NANA outlined above and, in particular consider that there are practical impediments to clause 15.9 applying to casual employees.

Request to include clause in consultation sessions

We appreciate that this issue has been raised late in the proceedings. However, given that:

- clarifying this issue would make the GRIA easier to use (which is the purpose of these proceedings);
- the issue is a discrete one; and
- reply submissions are not due until 19 February 2024,

we respectfully request that the consideration of the application of clauses 15.7-15.9 be included in the GRIA consultations.

Should the Commission be open to considering this issue, ABI would be willing to promptly file a draft determination to confirm its position regarding the clauses, should this be of assistance.

Yours faithfully

Luis Izzo

Managing Director - Sydney Workplace
Australian Business Lawyers & Advisors

8 Chifley Square, Sydney NSW 2000

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From: Chambers - Hatcher J <Chambers.Hatcher.J@fwc.gov.au>

Sent: Thursday, February 8, 2024 4:08 PM

To: Sunil Kempfi <skempfi@actu.org.au>; Trevor Clarke <tclarke@actu.org.au>; 'Michael Robson' <mrobson@asu.asn.au>; Corey Rabaut <CRabaut@asu.asn.au>; Sue-Anne Burnley <sue-anne@sda.org.au>; Gavin van Rensburg <gavin@sda.org.au>; 'Annette van Gent' <annette.vangent@unitedworkers.org.au>; Luis Izzo <luis.izzo@ablawyers.com.au>; Victor Song <Victor.Song@ablawyers.com.au>; Ruchi Bhatt <ruchi.bhatt@aigroup.com.au>; 'Caroline Beasley' <Caroline.Beasley@aigroup.com.au>; Jessica Tinsley <Jessica.Tinsley@acci.com.au>; Sarah Swan <sswan@qha.org.au>; Melissa Butters <mbutters@qha.org.au>; 'ciaran.strachan@awcc.asn.au' <ciaran.strachan@awcc.asn.au>; 'Lindsay Carroll' <l.carroll@nationalretail.org.au>; 'Kelly Thomas' <kthomas@vthc.org.au>; Stephanie Johnson <stephanie.johnson@corrs.com.au>; 'martin.stirling@mgaiba.org.au' <martin.stirling@mgaiba.org.au>; 'legal@mga.asn.au' <legal@mga.asn.au>

Cc: Awards <Awards@fwc.gov.au>

Subject: RE: Consultation Sessions - AM2023/21 - Modern Awards Review - Making Awards Easier to Use

OFFICIAL

Dear parties and representatives,

I refer to my colleague's email of yesterday evening, forwarded below. With apologies, we are going to need to reschedule consultations 5 and 6 as the proposed dates clash with O'Neill DP's consultations in respect of the work and care stream of the Review. (Thank you to Ai Group for bringing this to our attention!)

Accordingly, the revised details of the consultation sessions for the 'making awards easier to use' stream are:

1. Consultation 1 concerns the common issues across all awards. It will be held in **Sydney from 10:00 am to 5:00 pm (AEDT) on Friday, 8 March 2024.** [no change]
2. Consultation 2 concerns the *Fast Food Industry Award 2020* and the *General Retail Industry Award 2020*. It will be held in **Melbourne from 10:00 am to 5:00 pm (AEDT) on Tuesday, 12 March 2024.** [no change]
3. Consultation 3 concerns the *Clerks—Private Sector Award 2020*. It will be held in **Melbourne from 9:00 am to 12:30 pm (AEDT) on Wednesday, 13 March 2024.** [no change]
4. Consultation 4 concerns the *Social, Community, Home Care and Disability Services Industry Award 2010*. It will be held in **Melbourne from 1:30 pm to 5:00 pm (AEDT) on Wednesday, 13 March 2024.** [no change]
5. Consultation 5 concerns the *Hospitality Industry (General) Award 2020* and *Restaurant Industry Award 2020*. It will be held in **Sydney from 10:00 am to 5:00 pm (AEDT) on Tuesday, 19 March 2024.**
6. Consultation 6 concerns the *Children's Services Award 2010*. It will be held in **Sydney from 10:00 am to 5:00 pm (AEDT) on Wednesday, 20 March 2024.**

The deadline to advise us of:

- which consultations you wish to attend; and
- the number of people anticipated to appear at each of those consultations

is now **5:00 pm (AEDT) on Monday, 12 February 2024.**

Edrea Venal (she/her)

Associate to Justice Hatcher, President

Member Support Team, Tribunal Support Branch



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From: Chambers - Hatcher J <Chambers.Hatcher.J@fwc.gov.au>

Sent: Wednesday, February 7, 2024 6:07 PM

To: Sunil Kemppe <skemppe@actu.org.au>; Trevor Clarke <tclarke@actu.org.au>; 'Michael Robson' <mrobson@asu.asn.au>; Corey Rabaut <CRabaut@asu.asn.au>; Sue-Anne Burnley <sue-anne@sda.org.au>; Gavin van Rensburg <gavin@sda.org.au>; 'Annette van Gent' <annette.vangent@unitedworkers.org.au>; Luis Izzo <luis.izzo@ablawyers.com.au>; Victor Song <Victor.Song@ablawyers.com.au>; Ruchi Bhatt <ruchi.bhatt@aigroup.com.au>; 'Caroline Beasley' <Caroline.Beasley@aigroup.com.au>; Jessica.Tinsley@acci.com.au; Sarah Swan <sswan@qha.org.au>; Melissa Butters <mbutters@qha.org.au>; 'ciaran.strachan@awcc.asn.au' <ciaran.strachan@awcc.asn.au>; 'Lindsay Carroll' <l.carroll@nationalretail.org.au>; 'Kelly Thomas' <kthomas@vthc.org.au>; Stephanie Johnson <stephanie.johnson@corrs.com.au>; 'martin.stirling@mgaiba.org.au' <martin.stirling@mgaiba.org.au>; 'legal@mga.asn.au' <legal@mga.asn.au>

Subject: Consultation Sessions - AM2023/21 - Modern Awards Review - Making Awards Easier to Use

OFFICIAL

Dear parties and representatives,

Further to the directions hearing earlier today, Wednesday, 7 February 2024, there will be six in-person consultation sessions, the details of which are as follows:

1. Consultation 1 concerns the common issues across all submissions. It will be held in **Sydney from 10:00 am to 5:00 pm (AEDT) on Friday, 8 March 2024.**
2. Consultation 2 concerns the *Fast Food Industry Award 2020* and the *General Retail Industry Award 2020*. It will be held in **Melbourne from 10:00 am to 5:00 pm (AEDT) on Tuesday, 12 March 2024.**
3. Consultation 3 concerns the *Clerks—Private Sector Award 2020*. It will be held in **Melbourne from 9:00 am to 12:30 pm (AEDT) on Wednesday, 13 March 2024.**
4. Consultation 4 concerns the *Social, Community, Home Care and Disability Services Industry Award 2010*. It will be held in **Melbourne from 1:30 pm to 5:00 pm (AEDT) on Wednesday, 13 March 2024.**
5. Consultation 5 concerns the *Hospitality Industry (General) Award 2020* and *Restaurant Industry Award 2020*. It will be held in **Sydney from 10:00 am to 5:00 pm (AEDT) on Thursday, 21 March 2024.**
6. Consultation 6 concerns the *Children's Services Award 2010*. It will be held in **Sydney from 9:00 am to 5:00 pm (AEDT) on Friday, 22 March 2024.**

Parties should attend in person whenever possible. If you cannot attend these consultations in person, you may request to attend by video using Microsoft Teams by emailing the chambers of Justice Hatcher as soon as possible.

Each party is to inform the chambers of Justice Hatcher, by way of email:

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Mahmoud Al Rifai (he/him)
Associate to Justice Hatcher, President
Member Support Team, Tribunal Support Branch

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