



STATEMENT

Fair Work Act 2009
s.156 - 4 yearly review of modern awards

4 yearly review of modern awards—Family and domestic violence clause and other matters (AM2015/1)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 23 JUNE 2017

4 yearly review of modern awards – Family and domestic violence clause – reconstitution of Full Bench.

[1] On 18 May 2017 I issued a Decision to refer questions of law to the Federal Court of Australia pursuant to s.608 of the *Fair Work Act 2009* (Cth).¹ Such a referral is to be in the form of a special case. On 20 June 2017 I issued a Statement² informing interested parties that the special case had been filed in the Federal Court.

[2] The Federal Court’s file number is VID618/2017 and the matter was the subject of a Case Management Hearing on Thursday 22 June 2017. A copy of the [transcript](#) of that hearing and [orders](#) made by the Court are available on the Commission’s website.

[3] As is apparent from the transcript, the Court has expressed ‘some serious concerns’ about the competence of the application³ and suggested that the issue in question could be brought before the Court by a decision being made by me as to the reconstitution question and a dissatisfied party bringing an application for judicial review.⁴

[4] Given the views expressed by the Court and the likely delay in having the matter determined I am giving consideration to discontinuing the special case (ie the s.608 referral), subject to the Court granting leave, and determining the reconstitution issue myself. Any interested party affected by my decision may then bring an application for judicial review.

[5] I will list this matter for hearing at **1pm on Wednesday 28 June 2017** to provide any interested party with an opportunity to be heard about the issue raised in paragraph [4] above.

PRESIDENT

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¹ [2017] FWC 2752

² [2017] FWC 3316

³ Transcript p2, line 37

⁴ Transcript p4, lines 16-40 and p8 at lines 35-37