



STATEMENT

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Hospitality Industry (General) Award 2010 – Substantive issues

(AM2014/272)

JUSTICE ROSS, PRESIDENT

MELBOURNE, 2 NOVEMBER 2017

Review of the Hospitality Industry (General) Award 2010 – substantive issues.

[1] Section 156 of the Fair Work Act 2009 (the Act) requires the Fair Work Commission (the Commission) to review all modern awards every four years (the Review). In the Award stage of the Review the 122 modern awards have been divided into 4 groups and the *Hospitality Industry (General) Award 2010* (the Hospitality Award) is in Group 4.

[2] On 24 March 2016 [a summary of proposed variations](#) for the Hospitality Award was published on the Commission's website.

[3] On 15 August 2016 a [Statement and draft directions](#)¹ were issued (the 15 August Statement) which amended the timetable for finalising the review of Group 4 awards.

[4] Following the 15 August Statement, a Mention was held on 24 August 2016 to allow interested parties to comment on the proposed timetable and raise any other issues in respect of the Statement. [Transcript](#) of the Mention is available on the Commission's website.

[5] A [Statement and Directions](#) issued on 26 August 2016 directed parties to:

‘...file a short submission confirming the substantive claims being pursued. This is not expected to be a full submission, but should include the following:

- (i) the nature of the change sought;
- (ii) a draft variation determination;
- (iii) the type of case to be run (merits or evidentiary based); and
- (iv) if the case is evidence-based, how many witnesses will be called?

This process will give parties the opportunity to reframe existing claims or to raise additional substantive claims. Parties are also requested to advise the Commission if

they are no longer pursuing any of their earlier claims. The filing date for this submission is on or before 4pm on Friday 30 September 2016.’

[6] Submissions were received in response to the 26 August 2016 Statement from:

(i) [United Voice](#)

(ii) Australian Hotels Association, the Accommodation Association of Australia and the Motor Inn, Motel and Accommodation Association ([correspondence of 7 October 2016](#)) and ([submission of 13 October 2016](#))

(iii) [Restaurant and Catering Industrial](#)

[7] In their [submission of 13 October 2016](#)² the AHA advised they would be seeking a number of substantive variations to the award.

[8] United Voice confirmed that substantive issues in relation to casual employment would be pursued in the review of the Hospitality award as well as the *Restaurant Industry Award 2010* and the *Registered and Licensed Clubs Award 2010*.

[9] Restaurant and Catering Industrial indicated they would pursue a substantive change relating to the coverage of caterers in the award. They also indicated they would seek to change the title of the award.

[10] There has not yet been a hearing to deal with any substantive issues in the Hospitality Award.

[11] Since the parties made these submissions, a [Decision](#) has been handed down in the Part-time employment and Casual employment common issues.³ The plain language Full Bench has also commenced proceedings regarding the plain language re-drafting of Hospitality Award. Accordingly, interested parties are directed to file a short submission confirming which substantive claims they now wish to pursue. Such submission should be filed by no later than **4.00 pm Friday 24 November 2017**. In the event that a party does not file a submission indicating that they wish to pursue a particular substantive claim I will proceed on the basis that such claims are no longer pressed.

[12] A Full Bench will be constituted to deal with any residual substantive claims after 24 November 2017.

PRESIDENT

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¹ [2016] FWC 5694

² See paras 6-13

³ [2017] FWCFB 3541