

IN THE FAIR WORK COMMISSION

Fair Work Act 2009

s.156 – 4 Yearly Review of Modern Awards

4 yearly review of modern awards—Family & Domestic Violence Leave Clause and Other Matters

(AM2015/2)

SUBMISSIONS OF THE AUSTRALIAN COUNCIL OF TRADE UNIONS

DATE: 5 May 2017

D No: 54/2017

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Introduction

- 1) On 18 April, Ross J issued a Statement directing interested parties to file submissions regarding the conduct of 10 matters in which Vice President Watson was the presiding Member, and which had not been completed prior to his resignation from the Fair Work Commission.
- 2) These submissions are filed in accordance with that direction and relate to *AM2015/2 – Family Friendly Working Arrangements*. They address the following matters as directed:
 - (a) whether the ACTU continues to pursue its claim, and
 - (b) whether the Full Bench should be reconstituted; and
 - (c) how the matter should proceed.
- 3) The ACTU repeats and relies on the relevant parts of its submissions dated 4 April 2017 and 12 April 2017 regarding the constitution of the bench in *AM2015/1 Family and Domestic Violence Leave Clause*.

AM2015/2 – Family Friendly Working Arrangements

- 4) The ACTU confirms that it continues to pursue its claim in *AM2015/2 – Family Friendly Working Arrangements*.
- 5) The ACTU submits that upon his resignation, Vice President Watson “became unavailable to continue dealing with” *AM2015/2 - Family Friendly Work Arrangements* within the meaning of s 622 of the *Fair Work Act 2009*, and the President is required to appoint a new Member before any additional step in the matter can be taken.
- 6) The ACTU submits that the Full-Bench should be reconstituted as soon as practicable in case there needs to be any amendment to the hearing dates (the weeks of 10 and 17 October 2017 are currently reserved) which may affect the availability of witnesses.
- 7) Amended directions were issued by Vice President Watson on 22 December 2016, in accordance with which the ACTU’s submissions and witness statements were due on 24 April 2017. At the request of the ACTU, an extension until 5 May 2017 was granted by the President.
- 8) The ACTU respectfully seeks a further and final short extension until 4pm on Tuesday 9 May 2017. The ACTU submits that a further short delay of this nature remains unlikely to cause the employer parties’ prejudice, as the hearing is not listed until October and the employer parties have until 25 August (on the current timetable) to consider and respond to the ACTU’s case. It remains the case that any request for an equivalent extension by the employer parties will not be opposed by the ACTU.

The Australian Council of Trade Unions

5 May 2017