

Form F1 – Application (no specific form provided)

Fair Work Commission Rules 2013, subrule 8(3) and Schedule 1

This is an application to the Fair Work Commission.

The Applicant

Title	<input type="checkbox"/> Mr <input type="checkbox"/> Mrs <input type="checkbox"/> Ms <input type="checkbox"/> Other please specify:		
First name(s)			
Surname			
Postal address	140 Arthur Street		
Suburb	North Sydney		
State or territory	NSW	Postcode	2060
Phone number	02 9458 7640	Fax number	9954 5029
Email address	See representative details below		

If the Applicant is a company or organisation please also provide the following details

Legal name of business	Australian Business Industrial and NSW Business Chamber
Trading name of business	Australian Business Industrial and NSW Business Chamber
ABN/ACN	78 638 594 704
Contact person	See below

How would you prefer us to communicate with you?

Email (you will need to make sure you check your email account regularly)

Post

Does the Applicant have a representative?

Yes – Provide representative's details below

No

Applicant's representative

Name of person	Luis Izzo		
Firm, union or company	Australian Business Lawyers & Advisers		
Postal address	140 Arthur Street		
Suburb	North Sydney		
State or territory	NSW	Postcode	2060
Phone number	02 9458 7640	Fax number	9954 5029
Email address	luis.izzo@ablawyers.com.au		

1. The Application

1.1 Please set out the provision(s) of the Fair Work Act 2009 (or any other relevant legislation) under which you are making this application.

1. BACKGROUND TO APPLICATION

- 1.1 This is an Application to the Fair Work Commission (**FWC**) to vary the “payment of wages” provisions in a number of Modern Awards as part of the Four Yearly Review of Modern Awards (**Four Yearly Review**).
- 1.2 As part of the Four Yearly Review, the FWC is conducting a review of the payment of wages provisions in various Modern Awards (AM2016/8).
- 1.3 As part of this review, on 17 July 2018, the Full Bench of the FWC issued a Decision ([2018] FWCFB 3566) which finalised the model term regarding payments made to employees upon termination of employment (**Model Term**).
- 1.4 On 21 August 2018, the FWC issued a Statement ([2018] FWC 4935) dealing with the insertion of the Model Term into the Modern Awards listed in paragraph 5 of the Statement.
- 1.5 Some of those Awards were dealt with in paragraphs 6 to 15 of the Statement.
- 1.6 In paragraph 16 of the Statement, the FWC stated that:
- “The remaining 22 awards will be dealt with as follows;*
- *Interested parties are directed to confirm whether they oppose the variation of these awards to include the model term by 4pm on 7 September 2018.*
 - *Any party wishing to press for the variation of one of the awards to insert the model term must file an application by 4 pm on Friday 21 September 2018.*
- 1.7 On 7 September 2018, the Applicants filed a submission with the FWC. The submission stated that the Applicants:
- (a) do not oppose the variation of the remaining 22 awards to include the Model Term; and
 - (b) intend to make an application to insert the Model Term into most of those awards.
- 1.8 The Applicants are now making this application in accordance with the second bullet point in paragraph 16 of the Statement.

2. Order or relief sought

2.1 Please set out the order or relief sought.

The Applicants are seeking a variation to the following Modern Awards to insert the Model Term:

- A. *Business Equipment Award 2010* [MA000021];
- B. *Aged Care Award 2010* [MA000018];
- C. *Supported Employment Services Award 2010* [MA000103];
- D. *Dry Cleaning and Laundry Industry Award 2010* [MA000096];
- E. *Plumbing and Fire Sprinklers Award 2010* [MA000036];
- F. *Meat Industry Award 2010* [MA000059];
- G. *Passenger Vehicle Transportation Award 2010* [MA000063];
- H. *Road Transport and Distribution Award 2010* [MA000038];
- I. *Road Transport (Long Distance Operations) Award 2010* [MA000039];
- J. *Food, Beverage and Tobacco Manufacturing Award 2010* [MA000073];
- K. *Graphic Arts, Printing and Publishing Award 2010* [MA000026]; and
- L. *Manufacturing and Associated Industries and Occupations Award 2010* [MA000010].

Attached to this Application as Annexures A to L are Draft Determinations setting out the specific variation sought in relation to each of the above Modern Awards.

2.2 Please set out grounds for the order or relief sought.

The Applicants' grounds for seeking the variations will be set out in submissions to the FWC, once relevant directions for submissions are timetabled in due course.

Signature

Signature	
Name	Luis Izzo
Date	21 September 2018

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS

ANNEXURE A

DRAFT DETERMINATION

BUSINESS EQUIPMENT AWARD 2010 [MA000021]



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages (AM2016/8)

BUSINESS EQUIPMENT AWARD 2010 [MA000021]

Business equipment industry

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Business Equipment Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWCFB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

25.4 Upon termination of employment, the wages due to an employee must be paid on the day of such termination or forwarded by post on the next working day.

2. By inserting the following clause:

25.4 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).
- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.
- B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT

ANNEXURE B

DRAFT DETERMINATION

AGED CARE AWARD 2010 [MA000018]



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages (AM2016/8)

AGED CARE AWARD 2010
[MA000018]

Aged care industry

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Aged Care Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWCFB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

17.3 Termination

When notice of termination of employment has been given by an employee or an employee's services have been terminated by an employer, payment of all wages and other moneys owing to an employee will be made to the employee by no later than the last day of the formal notice period.

2. By inserting the following clause:

17.3 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award

and the [NES](#).

- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

- B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT

ANNEXURE C

DRAFT DETERMINATION

SUPPORTED EMPLOYMENT SERVICES AWARD 2010

[MA000103]



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages

(AM2016/8)

SUPPORTED EMPLOYMENT SERVICES AWARD 2010

[MA000103]

Supported employment services

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Supported Employment Services Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWCFB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

18.4 Where an employee is discharged from employment the employee will be paid immediately for all wages, overtime, pro rata payment for annual leave, annual leave loading or any remuneration due. Payment may be made by cash, cheque or electronic funds transfer at the discretion of the employer.

2. By inserting the following clause:

18.4 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).

- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

- B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT

ANNEXURE D

DRAFT DETERMINATION

**DRY CLEANING AND LAUNDRY INDUSTRY AWARD 2010
[MA000096]**



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages (AM2016/8)

DRY CLEANING AND LAUNDRY INDUSTRY AWARD 2010
[MA000096]

Dry cleaning and laundry services

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Dry Cleaning and Laundry Industry Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWC FB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

19.3 Termination

When notice of termination of employment has been given by an employee or an employer, payment of all wages and other money owing to an employee will be made to the employee by no later than the last day of the formal notice period.

2. By inserting the following clause:

19.3 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
- (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).

- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

- B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT

ANNEXURE E

DRAFT DETERMINATION

**PLUMBING AND FIRE SPRINKLERS AWARD 2010
[MA000036]**



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages

(AM2016/8)

PLUMBING AND FIRE SPRINKLERS AWARD 2010

[MA000036]

Plumbing and fire sprinkler fitting services

JUSTICE ROSS, PRESIDENT

DEPUTY PRESIDENT BOOTH

DEPUTY PRESIDENT CLANCY

COMMISSIONER CRIBB

COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Plumbing and Fire Sprinklers Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWC FB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

27.4 When notice is given in accordance with clause 17—Termination of employment, monies due to the employee must be paid at the time of termination. Where this is not practicable monies will be sent by registered post or, if the employee is normally paid by electronic funds transfer, transferred into the employee's account within two working days.

2. By inserting the following clause:

27.4 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).

- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

- B. This determination comes into operation from xx xxxxxx 2018. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after xx xxxxxx 2018.

PRESIDENT

ANNEXURE F

DRAFT DETERMINATION

MEAT INDUSTRY AWARD 2010 [MA000059]



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages (AM2016/8)

MEAT INDUSTRY AWARD 2010
[MA000059]

Meat industry

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Meat Industry Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWCFB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

29.2 Upon termination of employment, any wages due to an employee will be paid on the day of such termination or, at the employee's option, forwarded to them on the next working day.

2. By inserting the following clause:

29.2 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).

- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

- B. This determination comes into operation from xx xxxxxx 2018. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after xx xxxxxx 2018.

PRESIDENT

ANNEXURE G

DRAFT DETERMINATION

**PASSENGER VEHICLE TRANSPORTATION AWARD 2010
[MA000063]**



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages (AM2016/8)

PASSENGER VEHICLE TRANSPORTATION AWARD 2010
[MA000063]

Passenger vehicle transportation services

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Passenger Vehicle Transportation Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWC FB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

19.3 Notwithstanding anything contained in this clause, the employer must pay to an employee who leaves or is dismissed all moneys due to the employee within two working days.

2. By inserting the following clause:

19.3 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
- (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).

- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.
- B. This determination comes into operation from xx xxxxxx 2018. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after xx xxxxxx 2018.

PRESIDENT

ANNEXURE H

DRAFT DETERMINATION

**ROAD TRANSPORT AND DISTRIBUTION AWARD 2010
[MA000038]**



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages

(AM2016/8)

ROAD TRANSPORT AND DISTRIBUTION AWARD 2010

[MA000038]

Road transport and distribution

JUSTICE ROSS, PRESIDENT

DEPUTY PRESIDENT BOOTH

DEPUTY PRESIDENT CLANCY

COMMISSIONER CRIBB

COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Road Transport and Distribution Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWC FB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

20.3 Notwithstanding anything contained in this clause, the employer must pay to an employee who leaves or is dismissed all moneys due to the employee forthwith.

2. By inserting the following clause:

20.3 Payment on termination of employment

(a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:

(i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and

(ii) all other amounts that are due to the employee under this award and the [NES](#).

(b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT

ANNEXURE I

DRAFT DETERMINATION

**ROAD TRANSPORT (LONG DISTANCE OPERATIONS)
AWARD 2010**



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages

(AM2016/8)

ROAD TRANSPORT (LONG DISTANCE OPERATIONS) AWARD 2010

[MA000039]

Road transport (long distance)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Road Transport (Long Distance Operations) Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWCFB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

18.3 Notwithstanding anything contained in this clause, the employer must pay to an employee who leaves or is dismissed all money due to the employee immediately.

2. By inserting the following clause:

18.3 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).
- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making

deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT

ANNEXURE J

DRAFT DETERMINATION

**FOOD, BEVERAGE AND TOBACCO MANUFACTURING
AWARD 2010**



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages (AM2016/8)

FOOD, BEVERAGE AND TOBACCO MANUFACTURING AWARD 2010

[MA000073]

Food, beverage and tobacco manufacturing

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Food, Beverage and Tobacco Manufacturing Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWCFB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

28.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee on the next working day.

2. By inserting the following clause:

28.3 Payment on termination of employment

(a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:

- (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
- (ii) all other amounts that are due to the employee under this award and the [NES](#).

- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

- B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT

ANNEXURE K

DRAFT DETERMINATION

**GRAPHIC ARTS, PRINTING AND PUBLISHING AWARD
2010 [MA000026]**



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages (AM2016/8)

GRAPHIC ARTS, PRINTING AND PUBLISHING AWARD 2010

[MA000026]

Graphic arts, printing and publishing

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Graphic Arts, Printing and Publishing Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWCFB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

28.5 Payment on termination

On termination of employment, all monies due to an employee must be paid on the day of termination. When an employee is dismissed without notice all monies are to be forwarded to the employee by post or electronic funds transfer by the end of the next business day following the termination.

2. By inserting the following clause:

28.5 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and

- (ii) all other amounts that are due to the employee under this award and the [NES](#).
- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT

ANNEXURE L

DRAFT DETERMINATION

**MANUFACTURING AND ASSOCIATED INDUSTRIES AND
OCCUPATIONS AWARD 2010 [MA000010]**



DRAFT DETERMINATION

Fair Work Act 2009

s.156 – 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages (AM2016/8)

MANUFACTURING AND ASSOCIATED INDUSTRIES AND OCCUPATIONS AWARD 2010

[MA000010]

Manufacturing and associated industries and occupations

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

MELBOURNE, XX MONTH 2018

4 yearly review of modern awards – payment of wages common issue – payments on termination model term – Manufacturing and Associated Industries and Occupations Award 2010.

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[\[2018\] FWCFB 4735\]](#), the above award is varied as follows:

1. By deleting the following clause:

34.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee by post on the next working day.

2. By inserting the following clause:

34.3 Payment on termination of employment

- (a) The employer must pay an employee no later than 7 days after the day on which the employee's employment terminates:
 - (i) the employee's wages under this award for any complete or incomplete pay period up to the end of the day of termination; and
 - (ii) all other amounts that are due to the employee under this award and the [NES](#).

- (b) The requirement to pay wages and other amounts under paragraph (a) is subject to further order of the Commission and the employer making deductions authorised by this award or the [Act](#).

Note 1: Section 117(2) of the [Act](#) provides that an employer must not terminate an employee's employment unless the employer has given the employee the required minimum period of notice or "has paid" to the employee payment instead of giving notice.

Note 2: Paragraph (b) allows the Commission to make an order delaying the requirement to make a payment under this clause. For example, the Commission could make an order delaying the requirement to pay redundancy pay if an employer makes an application under s.120 of the [Act](#) for the Commission to reduce the amount of redundancy pay an employee is entitled to under the [NES](#).

Note 3: State and Territory long service leave laws or long service leave entitlements under s.113 of the [Act](#), may require an employer to pay an employee for accrued long service leave on the day on which the employee's employment terminates or shortly after.

3. By updating the table of contents and cross-references accordingly.

- B. This determination comes into operation from **xx xxxxxx 2018**. In accordance with s.165(3) of the *Fair Work Act 2009* this determination does not take effect until the start of the first full pay period that starts on or after **xx xxxxxx 2018**.

PRESIDENT