

DATE: 16 January 2019
TO: Chambers of Vice President Catanzariti
COMPANY: Fair Work Commission
EMAIL ADDRESS: chambers.catanzariti.vp@fwc.gov.au
amod@fwc.gov.au
FROM: Jill Hignett
j.hignett@hrlawyers.com.au
OF: HR LAW
FILE NO: 409
RE: AM2018/14 - FOUR YEARLY REVIEW
OF MODERN AWARDS - AIR PILOTS
AWARD 2010 - SUBSTANTIVE ISSUES



EMAIL TRANSMISSION

STRICTLY PRIVATE AND CONFIDENTIAL

Dear Chambers

We act for Alliance Airlines Pty Ltd. **Attached** in accordance with the directions issued on 18 December 2018 is our client's Form F46.

We intend on filing detailed submissions in accordance with Order 2 on or before 13 February 2019.

If we can be of any further assistance, please let us know.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Jill Hignett', written over a light blue horizontal line.

Jill Hignett
Director
Accredited Specialist (Workplace Relations)
HR LAW

Liability limited by a scheme approved under professional standards legislation



Director
Jill Hignett
BSc LLB
Acc. Spec. (Work. Rel.)

Consultant
Craig Cameron
BBus LLB (Hons)

Consultant
Amy Richardson
LLB GradDipLP

Senior Associate
Sarah Neideck
LLB BIntRel
GradDipLP

Ph: (07) 3211 3350
Fax: (07) 3211 3313

E: info@hrlawyers.com.au
W: www.hrlawyers.com.au

GPO Box 1572
Brisbane Queensland 4001

Suite 1, Level 14
344 Queen Street
Brisbane Queensland 4000

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Form F46 Application to vary a modern award

Fair Work Act 2009, ss.157–160

This is an application to the Fair Work Commission to make a modern award or make a determination varying or revoking a modern award, in accordance with Part 2-3 of the [Fair Work Act 2009](#).

The Applicant



These are the details of the person who is making the application.

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			
Suburb			
State or territory		Postcode	
Phone number		Fax number	
Email address			

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

Legal name of business	Alliance Airlines Pty Ltd
Trading name of business	Alliance Airlines Pty Ltd
ABN/ACN	107 165 980
Contact person	Tracie Deegan

Does the Applicant need an interpreter?



If the Applicant requires an interpreter (other than a friend or family member) in order to participate in conciliation, a conference or hearing, the Fair Work Commission will provide an interpreter at no cost.

Yes—Specify language

No

Does the Applicant require any special assistance at the hearing or conference (e.g. a hearing loop)?

Yes— Please specify the assistance required

No

Does the Applicant have a representative?



A representative is a person or business who is representing the Applicant. This might be a lawyer, or a representative from a union or employer association. There is no requirement to have a representative.

Yes—Provide representative's details below

No

Applicant's representative



These are the details of the person or business who is representing the Applicant.

Name of person	Jill Hignett		
Organisation	HR Law		
Postal address	GPO Box 1572		
Suburb	Brisbane		
State or territory	Qld	Postcode	4001
Phone number	(07) 3211 3350	Fax number	
Email address	j.hignett@hrlawyers.com.au		

1. Coverage

1.1 What is the name of the modern award to which the application relates?



Include the Award ID/ Code No. of the modern award

Air Pilots Award 2010 (MA000046).

1.2 What industry is the employer in?

Aviation Industry.

2. Application

2.1 What are you seeking?

Specify which of the following you would like the Commission to make:

- a determination varying a modern award
- a modern award
- a determination revoking a modern award

2.2 What are the details of your application?

Variation to clause 13 of the exposure draft Air Pilots Award 2016 (clause 16 of the current Air Pilots Award 2010) as follows:

“13. Training—classifications

13.1 *This clause does not apply to employees engaged in aerial application operations.*

13.2 *Where employment has commenced and the employer and not a regulatory body or otherwise requires a pilot to undertake additional training to reach and maintain minimum qualifications for a particular aircraft type in accordance with this award, other than the aircraft type for which the pilot was employed, all facilities and other costs associated with attaining and maintaining those qualifications will be the responsibility of the employer.*

13.3 *Where a pilot fails to reach or maintain a standard required the pilot will receive further re-training and a subsequent check. The pilot may elect to have a different check captain on the second occasion.*

13.4 *Where a pilot fails the second check in clause 13.3, the pilot may, where practicable, be reclassified to the previous or a mutually agreed equivalent position.*

13.5 *Where employment commences under this award, the pilot’s service required to be undertaken by the prospective employer, and not a regulatory body or otherwise, prior to commencing employment, during a training period will be recognised and any training required to be conducted, by the prospective employer and not a regulatory body or otherwise, at the pilot’s cost will be reimbursed to the pilot.*

13.6 *Nothing in this clause 13 prevents the pilot and employer entering into an individual return of service or training bond.”*

Attach additional pages, if necessary.

2.3 What are the grounds being relied on?

Using numbered paragraphs, specify the grounds on which you are seeking the proposed variations.



1. Section 160 of the *Fair Work Act* (“the Act”) states:

“Variation of modern award to remove ambiguity or uncertainty or correct error

(1) *The FWC may make a determination varying a modern award to remove an ambiguity or uncertainty or to correct an error.*

(2) *The FWC may make the determination:*

(a) *on its own initiative; or*

(b) *on application by an employer, employee, organisation or outworker entity that is covered by the modern award; or*

(c) *on application by an organisation that is entitled to represent the industrial interests of one or more employers or employees that are covered by the modern award; or*

(d) *if the modern award includes outworker terms--on application by an organisation that is entitled to represent the industrial interests of one or more outworkers to whom the outworker terms relate.”*

2. The amendments set out in 2.2 seek for the Fair Work Commission to make a determination varying the modern award in accordance with section 160(1) of the Act by the addition of words which clarify the intention and interpretation of the award provision.

3. The amendments sort are consistent with the modern awards objective as defined by section 134 of the Act and seeks to maintain the status quo that exists under the Award and in the Aviation Industry (details of which will be provided in submissions to be filed in accordance with Order 2 of the Fair Work Commission dated 18 December 2018).

Attach additional pages, if necessary.

Signature



If you are completing this form electronically and you do not have an electronic signature you can attach, it is sufficient to type your name in the signature field. You must still complete all the fields below.

Signature	
Name	Jill Hignett
Date	15 January 2019
Capacity/Position	Solicitor for the Applicant



Where this form is not being completed and signed by the Applicant, include the name of the person who is completing the form on their behalf in the **Capacity/Position** section.

PLEASE RETAIN A COPY OF THIS FORM FOR YOUR OWN RECORDS