



## **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)

### **CHILDREN’S SERVICES AWARD 2010**

[MA000120]

Children's 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 – Children’s Services Award 2010.*

A. Further to the Full Bench decision issued by the Fair Work Commission on 15 August 2018 [\[2018\] FWCFB 4735](#),<sup>1</sup> the above award is varied as follows:

1. By deleting clause 19.3 and inserting the following:

#### **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](#).

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<sup>1</sup> See also decision issued on 17 July 2018, [\[2018\] FWCFB 3566](#)

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.

2. 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