



# DIRECTIONS

*Fair Work Act 2009*

s 158 - Application to vary or revoke a modern award

## **Application by McKay, Brenda**

(AM2020/2)

DEPUTY PRESIDENT SAMS

SYDNEY, 17 FEBRUARY 2020

[1] Fair Work Commission ('Commission') has received an application by Ms Brenda McKay (the 'applicant') to vary the *Road Transport (Long Distance Operations) Award 2010* to vary the definition of 'Loading and Unloading' and 'Travelling Allowance' as set out in Cls 3 and 14.2(c) respectively. A copy of the application is available on the Commission's website via the following link:

<https://www.fwc.gov.au/variation-am20202>

[2] The following directions are hereby issued in relation to the application:

1. The applicant and any persons wishing to make a submission in support of the application are directed to file with the Commission any submissions by **4.00 pm 9 March 2020**. Such submissions should:
  - a. detail the variations sought – that is, set out the details of the classifications to have inserted in the Award; and
  - b. provide detail as to how the variation meets the Modern Awards Objective (s 134 of the *Fair Work Act 2009*) set out below.
2. Any party opposed to the application is required to file with the Commission any submissions in response to the application by **4.00pm 30 March 2020**.
3. The applicant is to file with the Fair Work Commission submissions in reply (if any) by **4.00pm 6 April 2020**.

4. The parties who make submissions should indicate whether they request a hearing before the Full Bench or whether the matter can be dealt with 'on the papers'.
5. Upon receipt of the materials sought by these directions, the Commission will determine when the matter will be listed for hearing, if required.
6. All submissions shall be sent to [amod@fwc.gov.au](mailto:amod@fwc.gov.au) in both Word and PDF format (if available).



DEPUTY PRESIDENT

Printed by authority of the Commonwealth Government Printer

### **‘134 The modern awards objective**

What is the modern awards objective?

(1) The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:

- (a) relative living standards and the needs of the low paid; and
- (b) the need to encourage collective bargaining; and
- (c) the need to promote social inclusion through increased workforce participation; and
- (d) the need to promote flexible modern work practices and the efficient and productive performance of work; and
- (da) the need to provide additional remuneration for:
  - (i) employees working overtime; or
  - (ii) employees working unsocial, irregular or unpredictable hours; or
  - (iii) employees working on weekends or public holidays; or
  - (iv) employees working shifts; and
- (e) the principle of equal remuneration for work of equal or comparable value; and
- (f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and
- (g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and
- (h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

This is the modern awards objective.

*When does the modern awards objective apply?*

(2) The modern awards objective applies to the performance or exercise of the FWC’s modern award powers, which are:

- (a) the FWC’s functions or powers under this Part; and
- (b) the FWC’s functions or powers under Part 2-6, so far as they relate to modern award minimum wages.

Note: The FWC must also take into account the objects of this Act and any other applicable provisions. For example, if the FWC is setting, varying or revoking modern award minimum wages, the minimum wages objective also applies (see section 284).’