



27 April 2020

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Vice President Hatcher
Fair Work Commission
Sydney Registry

Dear Vice President

**S157 JOINT APPLICATION OF REEF AND REEFSANT TO VARY THE REAL ESTATE INDUSTRY AWARD
2020 IN LIGHT OF COVID-19**

1. AMENDED APPLICATION

- 1.1 We write with respect to the joint-application lodged on 14 April 2020 by the Real Estate Employers' Federation (**REEF**) and the Real Estate Employers' Federation of South Australia and the Northern Territory (**REEFSANT**) to vary the Real Estate Industry Award 2020 in light of COVID-19.
- 1.2 After conferring with the various parties and considering the issue, the applicants seek to amend the original Draft Determination lodged with the joint-application. We enclose the version of the Draft Determination in the form we now wish to press with the joint-application.
- 1.3 The Vice President will note that a new subclause (iv) has been inserted into clause 1.2.1 of Schedule I of the Draft Determination, which replaces subclauses (iv) and (v) of the Draft Determination originally attached to the joint-application. Subclause (vi) of the original Draft Determination becomes subclause (v).

27 April 2020

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If you have any questions, please contact Nigel Ward on (02) 9458 7286.

Yours faithfully

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DRAFT DETERMINATION

Fair Work Act 2009

s.157—Application to vary a modern award to achieve the modern award objective

REAL ESTATE INDUSTRY AWARD 2020

[AM2020/_____]

JUSTICE ROSS, PRESIDENT

XXXXX

XXXXX

Application to vary the Real Estate Industry Award 2020.

A. The above award is varied as follows:

1. In the Table of Contents add a new Schedule I
2. Add the following Schedule I to the award:

Schedule I—Award Flexibility During the COVID-19 Pandemic

I.1 Schedule I operates from [_____] 2020. During the operation of Schedule I, 16.7(h) is of no effect and the following provisions apply: **When commission-only arrangements must cease**

- (i) The gross income of commission-only employees must be reviewed annually to establish gross income.
- (ii) For employees on commission-only arrangements entered into prior to 2 April 2018 the review must occur no later than 12 months from 2 April 2018.

- (iii) For employees engaged on commission-only arrangements entered into after 2 April 2018 the review must occur no later than 12 months from the date those arrangements were entered into.
- (iv) **Pursuant to this clause, where an annual review is undertaken after 1 May 2020, the months of May, June, July, August, September and October 2020 (the COVID-19 months) may be disregarded in the calculation of the MITA for the preceding 12-month period under review if the work in that month has been impacted by COVID-19. The MITA will be adjusted accordingly in proportion to the number of months disregarded, provided that, where the commission-only employee's review date falls part way through any COVID-19 month, that month may only be disregarded where the review is due after the 14th of the month.**
- (v) Where the review establishes that the gross income of a commission-only employee for the year under review is less than the MITA as provided in clause 16.7(d) the commission-only arrangement must cease.