FWC Bulletin

2 May 2024 Volume 5/24 with selected Decision Summaries for the month ending Tuesday, 30 April 2024.

Contents

Gender pay equity research: Stage 2 report published

04 Apr 2024

We have published the Stage 2 report as part of the Gender pay equity research project for the Annual Wage Review 2023-24.

This report has been prepared by our staff and examines the history of 12 of the 13 modern awards identified in the Stage 1 report as setting the pay in large, highly feminised occupations in feminised industries.

The Stage 2 report examines the history of wage fixing and work value assessments in each of the 12 awards, helping to identify any indications of gender undervaluation. These indications include:

- a lack of a work value exercise undertaken by the Commission
- inadequate application of equal pay principles, and
- the making of consent awards and agreements.

The release of this report was previously announced in Justice Hatcher's 5 December 2023 statement. The report is published in accordance with the timetable for the Annual Wage Review 2023-24.

Justice Hatcher has also issued a statement which includes next steps for parties who wish to respond to the report.

Interested parties were invited to comment on the research in reply submissions to the Annual Wage Review 2023-24 **by 5pm (AEST) on Monday 29 April 2024**.

Read the:

- President's Statement: Gender pay equity research – Stage 2 report published (pdf)
- Stage 2 report: Gender pay equity research (pdf)
- Annual Wage Review 2023-24

Minimum standards for regulated workers – Implementation Report published

12 Apr 2024

We recently published an Implementation Report about incoming functions relating to minimum standards for regulated workers. Justice Hatcher also issued a statement about the report.

The new functions are given to us by Part 16 of the *Fair Work Legislation Amendment (Closing Loopholes No. 2) Act 2024*. They will commence on a date to be proclaimed or 26 August 2024.

Regulated workers are:

- 'employee-like' workers performing digital platform work, and
- regulated road transport contractors.

About the report

The Implementation Report sets out how we plan to implement the new functions, which include:

- making minimum standards orders and guidelines for regulated workers
- making road transport contractual chain orders and guidelines, and
- registering collective agreements for regulated workers and regulated businesses.

We will publish a further implementation report soon that will deal with other new functions under Part 16 including:

- employee-like worker disputes about unfair deactivation from a digital platform, and
- regulated road transport worker disputes about unfair termination of a contract.

In his 27 February 2024 Statement, Justice Hatcher noted the significant nature of the changes relating to regulated workers. These reports are part of our commitment to engage and consult with our stakeholders on how we implement these new functions.

Visit our website to download the report and statement and to find out more:
Minimum standards for regulated workers – Implementation Report published

New online form for general protections applications involving dismissal (Form F8)

16 April 2024

We are excited to announce the General protections application involving dismissal online form (Form F8) is now available in our Online Lodgment Service (OLS).

The online form has been developed as part of our commitment to continue improving the way we deliver our services to the community.

The online form has replaced the previous version where forms were uploaded into the OLS. Now you can easily follow the prompts to complete the form online.

You can now lodge the following forms using the OLS:

- Unfair dismissal application (F2) – online form
- General protection applications (F8) – online form, F8C upload form
- Unlawful termination application (F9) – upload form
- Agreement approval application (F16) – online form
- Application to stop bullying at work (F72) – upload form

To lodge your form just click online lodgment service and follow the prompts to set up an account and get started. From here you can:

- save applications and return to them later
- view your history of submitted applications, and
- review and download previously submitted applications.

In addition, the online forms are designed to be easy to use and include:

- prompts to help you provide the information needed to make a complete application
- auto-fill function
- links to other resources that might help you.

The OLS is now our preferred method of lodgment for available forms. We will continue to expand the range of forms that can be lodged online.

After you lodge an application, you will receive a lodgment confirmation email. This includes a survey link you can use to provide feedback on the OLS.

We encourage you to provide feedback to help us continue improving our services to better meet your needs.

Regulated worker updates: new subscription service

22 Apr 2024

We have a new subscription service to help you stay up to date with news and changes about our incoming regulated worker functions.

The service provides updates on matters affecting regulated workers including provisions about:

- 'employee-like' workers performing digital platform work in the gig economy
- the road transport industry, and
- independent contractors.

Subscribe now to regulated worker updates.

Decisions of the Fair Work Commission

The summaries of decisions contained in this Bulletin are not a substitute for the published reasons for the Commission's decisions nor are they to be used in any later consideration of the Commission's reasons.

Summaries of selected decisions signed and filed during the month ending Tuesday, 30 April 2024.

1 ENTERPRISE AGREEMENTS – dispute about matter arising under agreement – lawful and reasonable direction – s.739 Fair Work Act 2009, ss.17, 28, 47 Work health and Safety Act 2012 (Tas) – applicant covered by multiple enterprise agreements which involve CEPU, CFMEU, and AWU – employees may become exposed to airborne contaminants including crystalline silica and asbestos while performing duties – risk cannot be eliminated and applicant required to manage and reduce the risk by providing personal protective equipment (PPE) and respiratory protective equipment (RPE) – applicant maintained PPE procedure which contained implicit requirement that employees using RPE need to be clean shaven – applicant accepted this requirement was not strictly enforced – in 2023, applicant released revised PPE procedure and advised employees they must comply with PPE procedure, which included explicit requirement for employees to be clean shaven between face and face seal when using RPE – in November 2023, CEPU raised dispute concerning RPE and PPE procedure – agreements contained status quo provisions where position that existed before dispute would prevail until dispute resolved, unless there is reasonable concern relating to any person's health and safety – status quo position is that applicant did not enforce clean shaven requirement when using RPE – applicant brought dispute application under FW Act against CEPU, and parties agreed for Commission to arbitrate dispute – Commission must determine whether direction that employees comply with clean shaven requirement is lawful and reasonable direction, and whether the status quo provision applies – applicant produced evidence to Commission about PPE procedure review and consultations that occurred – applicant submitted one of tasks undertaken by staff is changing drums of liquid chlorine in water treatment plants, and that review found there were no alternative RPE available for use in relation to chlorine exposure – applicant submitted only Self-Contained Breathing Apparatus can be used for chlorine exposure and it can only work if the wearer is clean shaven between face and face seal – applicant considered use of Powered Air Purifying Respirators (PAPR) units as alternative RPE as part of review but found there were significant costs to introducing and maintaining PAPR units, and that existing RPE provided sufficient protection to employees – revised PPE procedure makes explicit that employees must be clean shaven when using RPE and that employees with facial hair that passes between skin and sealing surface are prohibited from performing work which requires RPE – applicant gave evidence about steps taken to implement revised PPE procedure and how it was communicated to employees – CEPU submitted that many employees were not consulted and provided witness statements from delegates who participated in discussions regarding PPE procedure review – Commission found CEPU advanced no direct evidence that consultations did not occur or were perfunctory, and CEPU provided no evidence that employee suggestions were not

considered by applicant – Commission accepted applicant's evidence that extensive consultations occurred with employees, unions, Health and Safety Representatives, and other stakeholders – CEPU submitted that applicant did not fulfill duty under WHS Act to eliminate or minimise risks to employees so far as is reasonably practicable – CEPU submitted that applicant should have taken further reasonably practicable steps by providing alternative RPE for use by bearded dissenters – Commission rejected CEPU's submissions as CEPU led no evidence to substantiate this contention – Commission found that whether this further step could or should have been taken does not mean that steps already taken by applicant were not inconsistent with applicant's duty under WHS Act, and does not suggest that direction to be clean shaven is unreasonable – Commission found PPE procedure, supply of RPE, and clean shaven direction are reasonable directions that can be given by employer in order to meet obligations under WHS Act – Commission accepted applicant's evidence that clean shaven requirement is necessary to ensure RPE complies with Australian Standards and manufacturer specifications – Commission determined that direction for employees to follow PPE procedure is reasonable direction which can be lawfully given as it falls within scope of employment, employment contract, and duties of employer and employees under WHS Act – CEPU asserted that insistence on employees being clean shaven when using RPE is unreasonable – CEPU submitted that fit testing conducted by applicant showed that RPE supplied provides no seal and no protection for some employees – Commission accepted applicant's evidence that applicant is required to conduct fit testing as per WHS Act, and to ensure all employees required to use RPE pass fit-test – CEPU submitted that alternative RPE, including PAPR units, can be provided by applicant with sealing surfaces below level of most breads – Commission accepted applicant's evidence that review found PAPR is not suitable as employees are required to work outdoors, including in wet weather, and the costs and difficulty in maintaining PAPR while existing RPE does not suffer from such limitations – Commission found that even if four employees indicated they will not comply with clean shaven requirement, their refusal to comply does not make direction unreasonable – similarly, applicant's refusal to provide exceptions to those employees does not make direction unreasonable – Commission determined that direction is reasonable considering applicant's duties under WHS Act, that applicant is required to provide appropriate PPE and for RPE supplied to be effective employees must be clean shaven, Australian Standards on use of RPE and manufacturer specifications which require users to be clean shaven, that direction is not onerous considering potential harm, sometimes fatal, of inhaling hazardous material, that direction only applies to employees who will perform work requiring RPE, and that PPE procedure allows for exemptions in appropriate situations – Commission considered application of status quo provision – CEPU submitted departure from status quo provision must be justified by existing reasonable concern regarding health and safety, and that departure must be in service of responding to health and safety concern – CEPU submitted requirement for employees to comply with PPE procedure does not reasonably address concerns since employees are required to use RPE for tasks without successful fit-testing, and that direction employees be clean shaven at all times rather than when required to use RPE goes beyond what is required by applicant to address concerns – Commission found that departure from status quo must be justified by reasonable concern regarding health and safety, but

that it is not necessary for departure to be in service of responding to health and safety concern – Commission found that concern about health and safety must arise from the maintenance of status quo being that applicant has not enforced PPE procedure and employees did not need to be clean shaven when using RPE – Commission found that applicant has reasonable health and safety concern that arises from maintenance of status quo which justifies departure from status quo.

Tasmanian Water and Sewerage Corporations v Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia

C2023/7631 [2024] FWC 786
Gostencnik DP Melbourne 28 March 2024

2 TERMINATION OF EMPLOYMENT – jurisdiction – volunteer or employee – ss.382, 394 Fair Work Act 2009 – application for an unfair dismissal remedy – applicants were band members of the respondent – respondent received funding from Fire Rescue NSW (**FRNSW**) as a source of income – respondent established as an Incorporated Association for funding purposes in May 2022 – Constitution of the respondent contained a clause stating that members of the 'unincorporated body' prior to respondent's registration as an Incorporated Association will be taken as members upon incorporation – applicants members of 'unincorporated body' prior to respondent being established as an Incorporated Association – Constitution of respondent also established a Band Protocol, which outlined rules and requirements for band members – Band Protocol contained a clause outlining an 80% minimum attendance rate for band rehearsals and performances – applicants expelled by respondent for failing to adhere to attendance requirements for rehearsals and performances – applicants alleged expulsion from the band amounted to an unfair dismissal – respondent raised jurisdictional objection stating applicants were not employees but volunteers – whether applicants were employees of the respondent – applicants contended Band Protocol was the contract of employment with respondent as they were required to sign it – applicants submitted that they were paid an hourly rate when attending rehearsals and performances – respondent submitted participation in the band has always been voluntary by its members – respondent also submitted all band members are required to sign the Band Protocol – respondent further argued it never had an employment contract with applicants or any band members nor were the applicants covered by an award or enterprise agreement – respondent also submitted payments to applicants were to cover the costs incurred by the applicants as prescribed through a services agreement with FRNSW – Commission noted employment relationship exists only where a person agrees to perform work pursuant to a contract of service or contract of employment [*Barbour*] – Band Protocol could at any time be varied by respondent unilaterally, as prescribed in its Constitution – Band Protocol referred to membership of the band and not employment of the band – Commission noted that contract of employment could only be varied by agreement between the parties – also noted respondent became an incorporated association to satisfy funding requirements of FRNSW and for individuals to participate in the band as members of the respondent – Commission held payments of honorariums to applicants were not declared to the Australian Tax Office by band

members and were not the subject to a tax deduction or superannuation contribution from the respondent – quantum of honorarium was not the subject of a negotiation between applicants and respondent – held that Band Protocol was not a contract of employment, but rather an instrument created by the respondent under its Constitution – applicants found to not be employees for the purposes of s.382 – jurisdictional objection upheld – application dismissed.

Mifsud & Anor v Fire and Rescue NSW Band Incorporated

U2023/10046 and Anor [2024] FWC 853
Wright DP Sydney 3 April 2024

3 CONDITIONS OF EMPLOYMENT – flexible working arrangements – carer duties – s.65B Fair Work Act 2009 – application lodged after request for flexible working arrangement declined by respondent – after directions conference at Commission, applicant filed revised flexible workplace arrangement request, subsequently denied – second request reviewed by Commission – Commission considered jurisdictional prerequisites needed to arbitrate dispute – applicant employed by respondent for several years as a bank manager, whose contract specified Adelaide head office as place of work – applicant's position description contemplated him being available to assist staff and customers – applicant had been told by manager that every employee would need to attend office at least 2 days per week – following implementation of interim arrangement, applicant has attended workplace fortnightly, and has not attended any team meetings or seminars in previous 4 months – applicant asserted his performance well above benchmarks, and that he had been praised internally and externally – applicant's wife had sustained serious injury to her foot prior to applicant's employment – wife works as Yoga Instructor and instructs 15 x 1 hour-long, high intensity yoga workouts from home – applicant gave evidence that wife required his assistance when recuperating after she gave yoga classes – applicant raised wife's foot injury at job interview, was told that work from home arrangements were to be "fully flexible and negotiable" – applicant invited to provide medical evidence concerning wife's injury, wife invited to give evidence – neither invitation taken up – Commission therefore unable to assess wife's mobility, needs, level of activity or prognosis – Commission found doctor's certificate concerning wife's health to be vague, and noted that applicant's wife's capacity to undertake yoga training sessions appeared at odds with applicant's assertion that he was required for caring duties – applicant also cited daughter's ADHA and chronic asthma diagnoses, and fact that he held a Carer's Certificate under *Carers Recognition Act 2010* – respondent has been content for applicant to access carer's leave and be permitted to work from home, insofar as there were a need to care for his daughter on any given day – Commission satisfied with respondent's approach, saw no need for applicant to permanently work from home – Commission observed that applicant's registration as a carer with Carer SA not of itself determinative, factors described in s.5(1) of *Carers Recognition Act 2010* not necessarily applicable – Commission found insufficient evidence to establish applicant's wife had injury, unable to determine necessity for personal care, support or assistance – Commission not able to conclude applicant is a carer – Commission noted benefits of working face to face, despite applicant's claims that he was able to manage workload

appropriately, and noted respondent's reasonableness and accommodation of applicant's requests and needs – Commission ultimately declined to interfere in respondent's refusal to grant flexibility request; as consequence of decision, applicant required to attend office 2 days per week.

Gration v Bendigo Bank

C2023/6392 [2024] FWC 717
Platt C Adelaide 15 April 2024

4 CASE PROCEDURES – apprehension of bias – s.365 Fair Work Act 2009 – applicant lodged general protections application alleging respondent dismissed him in contravention of s.365 – conciliation conference before Commissioner held on 25 March 2024 – during conference applicant stated they wanted Commissioner to recuse themselves from the matter – applicant presented two reasons for recusal – first reason because of flags affixed to bottom of emails sent by Commissioner's Chambers – pride flag offended applicant – applicant claimed flag indicated Commissioner held political views contrary to their own and was therefore biased against applicant – second reason was due to Commissioner's previous role as Australian Council of Trade Unions (ACTU) Assistant Secretary – contended Commissioner therefore had an apprehended bias towards applicant – apprehended bias was because applicant leading figure of Free Speech Union that was opposed by ACTU – Free Speech Union and ACTU have publicly clashed due to different political views – applicant submitted press clippings to support their claim – respondent opposed recusal application – applicant also lodged complaint with President of Commission – complaint concerned pride flag in the standard Commission email signature block – President responded by noting flags symbolise Commission's commitment to inclusivity and diversity – intended to reflect values embedded in Fair Work Act – not intended to convey political view – President also noted Commissioner not involved in any way with signature block's design – respondent flagged high bar for Commission Members to recuse themselves from application on grounds of apprehended bias – respondent submitted no evidence to support claim that applicant's perception of Chambers views are reflective of Commission Member views – flags and political views irrelevant to applicant's application and Commission's limited jurisdiction to deal with a general protections dispute – applicant presented no evidence Commission Member's former role in any way created prejudice, apprehended or otherwise, to applicant – Commissioner noted that Commission Member should not hear a case if there is a reasonable apprehension that they are biased – reasonable apprehension of bias involves deciding whether a fair minded lay observer would reasonably apprehend decision maker would not decide case impartially and without prejudice [*Johnson*] – Commissioner cited *Ebner* objective test which requires first an identification of what might lead a judge (or juror) to decide a case other than on its merits – second an articulation of logical connection between matter and feared deviation from the course deciding its merits – a fair minded lay observer is taken to have some knowledge of natural circumstances of case – Commission Members required to hear application and consider grounds whether to recuse themselves from matter [*Loretta Woolson*] – Commissioner considered applicant's claim regarding identified flags in signature block from Commissioner's Chambers email – applicant did not present any evidence flags represented

Commissioner's views – applicant did not identify logical connection between alleged apprehension of bias, general protections claim and Commissioner's duty to act impartially – Commissioner considered applicant's second submission regarding Commissioner's former role as ACTU Assistant Secretary – Commissioner acknowledged public disagreements between ACTU and Free Speech Union had occurred – applicant did not present any evidence of views he purported to be offensive being expressed by Commissioner in any of Commissioner's former roles – reasonable and fair minded lay observer would not consider Commissioner's role at ACTU to be the basis of bias – former roles of Commission members cannot be and are not an automatic bar to fair, impartial and judicial performance of duties [*NTEU v Victoria University*] – applicant not reasonably identified what may lead Commissioner to make a decision other than on legal and factual merits – applicant's recusal application was dismissed.

Timming v Royal Melbourne Institute of Technology

C2023/8129 [2024] FWC 943
Connolly C Melbourne 12 April 2024

Other Fair Work Commission decisions of note

De La Rue v DPG Services P/L

TERMINATION OF EMPLOYMENT – valid reason – arrest – ss.387, 394 Fair Work Act 2009 – applicant arrested by police while at work on site on 18 June 2023 – applicant worked as Maintenance Officer at respondent's aged care facility – during arrest residents and their families witnessed applicant being combative with police – applicant was aware he was person of interest to police prior to attending work that day – following arrest applicant's employment suspended on basis arrest meant applicant did not meet inherent requirements for role – during suspension applicant informed respondent of reasons for arrest – applicant faced 4 charges: theft of ex-partner's mobile phone; two contraventions of a Family Violence Interim Intervention Order (FVIIO); and entering a private place without express or implied authority – FVIIO had been issued in April 2023 – applicant entered guilty plea in Magistrates Court in relation to three of the charges (one of the FVIIO charges was withdrawn) – applicant fined without conviction – employment discussion during suspension ended when applicant left site during a break – applicant directed to show cause on basis he failed to disclose FVIIO had been issued to him, had failed to follow reasonable direction to discuss employment during suspension, was arrested and charged of theft, and fined by Magistrates Court – applicant contended he could perform inherent requirements of role and should not be dismissed for failing to disclose interim intervention order as he was not obliged to do so – applicant's employment terminated – whether valid reason considered – Commission not satisfied theft of ex-partner's mobile phone constituted breach of respondent's Code of Conduct (Code) – observed Code dealt with conduct in relation to work and work-related activities – held out of hours theft of mobile phone did not contravene Code – whether failure to disclose FVIIO constituted valid reason for dismissal – observed respondent's police and criminal check policy referenced convictions and also circumstances where person has been charged and found guilty of an offence but not convicted – when FVIIO made in April 2023 no charge laid or conviction recorded against applicant – further observed applicant advised respondent of charges against him within two days of being charged – observed it could not be reasonably suggested fact applicant was subject to application for intervention order to be heard at later date, and nothing more, might lead to conviction of criminal offence – held no valid reason in relation to failure to disclose FVIIO – whether applicant failed to follow reasonable direction to discuss employment matters following arrest – respondent suggested applicant was obstructive when it was trying to understand why FVIIO had not been disclosed earlier – Commission found no requirement to disclose FVIIO prior to June

2023 as it, until then, represented neither a charge or conviction – further observed FVIIO concerned a relationship unrelated to applicant's employment – held alleged failure to follow reasonable direction not valid reason for dismissal – Commission considered whether arrest at work constituted valid reason – Commission noted applicant was aware he was person of interest to police when he attended work on 18 June 2023 – noted applicant allowed himself to be arrested at work when this was entirely avoidable – found in attending work in this circumstance applicant paid no regard to respondent's brand or reputation as residential aged care provider – further noted during arrest applicant was combative to police officers and was required to be handcuffed – found in context of applicant's employment this was wholly unacceptable – held applicant's conduct in failing to notify respondent he was person of interest in advance of attending work and later behaviour when being arrested constituted valid reason for dismissal – other s.387 factors considered – found applicant's ongoing mental health treatment did not otherwise render dismissal harsh, unjust or unreasonable – held dismissal not unfair – application dismissed.

U2023/6816 [2024] FWC 845
Clancy DP Melbourne 4 April 2024

Goddard v Richtek Melbourne P/L

TERMINATION OF EMPLOYMENT – misconduct – mitigation of loss – ss.392, 394 Fair Work Act 2009 – applicant made unfair dismissal application following dismissal from salesperson position – respondent provides grouting services – dismissed for not following company quoting policy and for being rude to customer – applicant claimed allegations never put to him – respondent then forwarded three letters to applicant's personal email address – letters separately flagged three instances of alleged misconduct – misconduct comprised allegedly providing customer quote over the phone rather than on site; allegedly speaking to customer in rude manner; and allegedly not following respondent's quote pricing policy – applicant claimed dismissal procedurally unfair and disproportionate to alleged conduct – respondent filed F3 response with four documents as 'evidence' – respondent did not file submissions or attend hearing – first document was customer record with complaint about applicant – Commission noted quote number referred to in complaint matched quote number in second misconduct letter – second and third documents were undated online customer reviews with complaints about respondent – applicant's name handwritten on both – Commission found documents did not establish complainants were applicant's clients – fourth document was invoice prepared by applicant – as no pricing policy submitted by respondent Deputy President held document did not establish applicant failed to follow company policy – Deputy President considered whether there was a valid reason for dismissal – respondent's claims applicant failed to follow company procedure were not made out – held respondent's evidence did not establish applicant had engaged in misconduct regarding how quote provided to customer – Deputy President held only one of respondent's reasons for dismissal was substantiated; found applicant was rude to a customer – held applicant not notified of reason for dismissal until after dismissal – noted respondent not a large business; it had 23 employees and did not possess in-house human resources management – acknowledged this likely impacted quality of dismissal process – applicant submitted sudden dismissal took toll on his financial situation – Deputy President held applicant's rudeness was valid reason for dismissal as it created risk to respondent's reputation and breached applicant's employment contract – Deputy President noted in circumstances offence should have attracted disciplinary response short of dismissal – held dismissal unfair – remedy considered – reinstatement not appropriate – awarded applicant compensation per s.392 – noted applicant's length of service – found applicant would have remained employed for at least year had he not been dismissed – under s.392(2)(d) Commission required to consider what efforts a person took to mitigate loss due to dismissal – applicant applied for multiple sales jobs but had not applied for jobs in same sector as previous work due to post-employment restraint provision in employment contract – clause stated applicant was not to work as an employee, contractor or advisor in any business which was – *'engaged in activities substantially similar or identical to the Company and provides*

services substantially similar or services offered by the Company' – accepted clause explained why applicant had not applied for jobs in his sector – Deputy President questioned whether such restraints on ordinary workers really protect any legitimate business interest, or merely serve to fetter ability of workers to ply their trade and reduce competition for labour and service – noted provision unlikely to be unenforceable due to scope of provision and that ordinary worker cannot be expected to know this – reasonable for applicant to not act contrary to an express provision of contract – Deputy President took account of applicant's earnings from two jobs he found since dismissal – compensation reduced by 25 percent due to applicant's misconduct and by further 15 percent to account for contingencies – ordered applicant be paid compensation by respondent.

U2023/13155 [2024] FWC 979
Colman DP Melbourne 16 April 2024

Davis v Wrekton P/L

TERMINATION OF EMPLOYMENT – jurisdiction – no dismissal – ss. 386, 394 Fair Work Act 2009 – applicant alleged she was dismissed on 26 November 2023 – lodged her unfair dismissal application on 11 December 2023 – respondent made two jurisdictional objections – applicant was not dismissed and application made outside of the 21 day filing period – respondent claimed applicant's termination took effect on 26 October 2023 – respondent runs a specialist investigation service dealing with, inter alia, misconduct in disability childcare and aged care sectors; child abuse and grooming; and other reportable conduct – applicant claimed work undertaken was challenging and confronting – applicant harassed by people who were subjects of her investigations as well as having to assist a highly distressed client – applicant requested changes to her work hours to allow a four day fortnight – applicant advised respondent she felt she was working too hard and too many hours – respondent agreed to requested changes to hours – applicant however felt despite agreed changes this did not change her work conditions – applicant claimed she was not consulted during an operational restructure that changed her role – Deputy President noted emails between the parties indicated applicant had agreed to the changes to her role – applicant went on a period of medical leave in September to October 2023 – applicant returned from medical leave but was not contacted by the respondent's managers upon her return to work on 9 October 2023 – applicant left and returned home on 9 October applicant gave notice of resignation on 22 October 2023 via email – respondent accepted applicant's resignation – respondent paid out applicant's entitlements – applicant claimed after she gave notice resignation she suffered from anxiety and disturbed sleep – applicant stated she had not read the respondent's subsequent emails including that the respondent had proposed to pay out her leave – applicant assumed her resignation would take effect on 26 November 2023 – applicant considered her annual leave would continue for this four week period – Deputy President considered whether applicant had been dismissed – Deputy President considered meaning of termination at the initiative of the employer – "termination must occur as a direct result of action taken by the employer and had the employer not taken this action, the employee would have remained in the employment relationship" [*Mohazab*] – Deputy President further noted s.386(1)(b) that an employee is dismissed when employee quits their job in response to conduct by the employer which gives them no reasonable choice but to resign [*Tavassoli*] – Deputy President considered whether applicant's resignation was due to a course of conduct by the respondent – Deputy President accepted some of the material applicant dealt with was traumatic – noted applicant's work had changed over time to a role requiring her to review reports and investigations – further noted applicant's work then shifted back to investigative work following a restructure in mid-2023 – observed applicant had been reluctant to undertake investigative work following restructure – following an interview with a distressed interviewee applicant took leave – found traumatic events applicant experienced provided only a temporal link to her termination – respondent had tried to take steps to address applicant's concerns – Deputy President held respondent's actions did not create a scenario where the applicant had no alternative but to resign – Deputy President found respondent had taken steps to try to retain the

applicant as an employee (or in the alternative a consultant), such as by substantially increasing her salary in late 2022 and again in August 2023 – Deputy President noted there was a lack of evidence from both parties regarding the exact nature of the excessive hours of work claimed by applicant – found applicant did work at various times long hours as required by respondent – held long hours of work claimed by applicant could not be sustained as a cause of her resignation – found applicant's claim that demands of work took a toll on her health such that she had no choice but to resign was not substantiated by evidence – Deputy President concluded applicant not compelled to resign within meaning of s.386(1)(b) – Deputy President considered the different claims of applicant and respondent as date dismissal took effect – Deputy President noted language of applicant's resignation email was important – applicant indicated she wanted to use her accrued leave until it ran out on 26 November 2023 – she stated *"if possible I would like to remain on leave until it runs out, and to have my resignation effective at that time"* – respondent's contact responded on 26 October 2023 that respondent would pay out the applicant's leave unless respondent "*heard otherwise"* – Deputy President held respondent had taken reasonable steps to communicate acceptance of applicant's resignation – Deputy President found it was not the respondent's fault applicant had not read her emails – Deputy President found this difficult to reconcile with applicant's actions immediately following her resignation such as returning office keys and equipment in the first fortnight of November – Deputy President held applicant's resignation took effect on or about 2 November 2023 when respondent had made payout of leave – Deputy President considered whether there were exceptional circumstances that allowed for a granting of an extension of time – considered reasons for applicant's delay including applicant was unaware of respondent's decision to pay out her notice because she was too unwell to look at her emails – Deputy President found this evidence less than convincing and applicant had made choice to ignore emails from respondent which weighed against applicant – held applicant had full period of 21 days in which to lodge her unfair dismissal application which weighed against applicant – noted merit of application weighed in favour as on material before Commission no basis to establish valid reason for dismissal – held not exceptional circumstances in favour of an extension of time – application dismissed.

U2023/12309 [2024] FWC 705
Masson DP Melbourne 25 March 2024

Baker v Bodhicorp P/L ATF The Gadens Service Trust No 2 T/A Gadens Lawyers Brisbane

CASE PROCEDURES – procedural and interim decisions – delay – procedural fairness – ss.394, 577 Fair Work Act 2009 – applicant filed application in October 2018 – applicant's employment had been terminated as she did not attend independent medical examination as requested by respondent – matter did not resolve at November 2018 staff conciliation – from November 2018 matter consistently adjourned on repeated requests of applicant based on significant health concerns – Commission accepted applicant's extension requests – in October 2023 respondent applied for matter to be timetabled for hearing – Commission noted timeline of adjournment requests and other interlocutory matters raised by applicant, including application for confidentiality order – noted Commission required to accord procedural fairness to those affected by decisions – applicant sought to adjourn on basis of incapacity and lack of representation – acknowledged applicant is suffering from complex health situation however denied further delay to proceeding – applicant's incapacity considered – noted series of adjournments resulted in unbroken adjournment of 64 months from staff conciliation – Commission did not accept current medical certificate from applicant's GP as reason for further delay – earlier certificates contained particulars on applicant's condition, however most recent certificates were unparticularised with no reason for specific period of adjournment or applicant's expected recovery – while medical opinion assists Commission in determining whether to delay matter, incapacity not always accepted as reason for delay previously [*Bellou*] – further noted no obligation for hearing to be perfect or ideal as long as opportunity to be heard provided [*Roman Catholic Church for Diocese*

of Lismore] – noted Commission could accommodate applicant in number of ways, including: online hearing rather than in person; listing on multiple days to allow breaks; allowing support person to speak for applicant; and matter could be determined on materials already before Commission – held accommodations adequately addressed applicant's incapacity and would provide fair hearing – lack of representation considered – observed representation not required for s.394 proceedings – acknowledged imbalance between applicant and respondent as respondent a large law firm with significant internal employment law expertise – found informal nature of Commission addressed imbalance and would allow 'fair go all round' – whether further delay would cause prejudice considered – respondent suggested unnecessary delay caused prejudice [*Bi v Mourad*] – further suggested Commission obliged to exercise functions consistent with s.577, including in manner that is quick, informal and avoids unnecessary technicalities – found continuing to delay contrary to Commission's s.577 obligations – found it will be more difficult for witnesses to recall facts from six years ago if matter further delayed – warned if applicant requests further delay after this decision published she would be considered vexatious in extending proceedings further – preliminary view expressed applicant vexatiously litigating claim with limited prospects of success – held respondent's request for hearing would be granted – matter to be referred as preliminary view expressed – held if further adjournment sought application would be dismissed.

U2018/10767 [2024] FWC 924
Lake DP Brisbane 17 April 2024

Shaft v Diversey Australia P/L

GENERAL PROTECTIONS – jurisdiction – whether employee – ss.340, 365 Fair Work Act 2009 – applicant sought general protections involving dismissal remedy – jurisdictional objection by respondent – whether applicant was an 'employee', and not dismissed, within the meaning of the FW Act – respondent submitted applicant was an independent contractor – applicant submitted she was an 'employee' or, alternatively, the contractual relationship was a sham – starting point for determining employment relationship is *Personnel Contracting* and *Jamsek* – post-contractual conduct may be used to establish the existence of a contractual term or where party alleges contract is a sham [*Personnel Contracting*] – a sham is a contract brought into existence as a mere piece of machinery to serve a purpose other than that of constituting the whole of the employment arrangement [*Personnel Contracting*] – characterisation of employment relationship determined by considering the totality of the relationship between the parties by reference to the various indicia of employment [*Personnel Contracting*] – two key indicia include the extent to which the employer has control over the individual performance of work and the extent to which the individual can be seen to work in their own business as opposed to the business of the employer [*Personnel Contracting*; *JMC P/L*] – contractual terms of applicant covered by Distributor's Agreement – sham contract considered – Commission found no evidence demonstrating a sham – Commission found employer acted in accordance with the Distributor's Agreement – applicant was paid commission only upon invoices and received no employment entitlements, as set out in the Distributor's Agreement – characterisation of contract considered – terms of Distributor's Agreement provided little direct contractual control over applicant's performance of work – applicant not constrained in the way, and time, products are sold – applicant free to appoint resellers – Commission found there were some aspects of control, which did not demonstrate an overall contractual right of control – aspects included an obligation to exclusively supply the respondent's products and product pricing was set by respondent – Commission determined that pricing control went to the point that title to goods did not pass between applicant and respondent – Commission found there were factors demonstrating applicant carrying on her own business – applicant responsible for their own income taxation and collection of GST, applicant responsible for superannuation – applicant obliged to obtain and pay for Workcover – Commission noted applicant's sole commitment to respondent was indicia in favour of employer/ employee relationship – Commission held totality of relationship between the parties demonstrated applicant was independent contractor

– held applicant not an employee, and not dismissed, within the meaning of the FW Act – application dismissed.

C2023/7216 [2024] FWC 740
Bell DP Melbourne 2 April 2024

Wallace v Duo Trading P/L

TERMINATION OF EMPLOYMENT – performance – ss.387, 394 Fair Work Act 2009 – applicant was employed as Area Sales Manager for a period of six months – applicant performed well in role for first two months – applicant's sales dropped and targets thereafter not met – respondent terminated applicant's employment for poor sales performance – respondent also relied on conduct because it alleged the applicant failed to complete calling cards correctly or on time – applicant did not dispute calling cards issue – Commission held respondent's expectation applicant complete calling cards within the timeframe expected was reasonable – Commission held applicant's failure in completing calling cards a failure to comply with reasonable management direction and was a valid reason for dismissal – Commission found Applicant's performance was mixed but at the time of his termination his sales performance was poor with considerable ground to make up – Commission considered sales targets realistic – Commission held applicant's poor sales performance a valid reason for dismissal – respondent also raised applicant had failed drug test on first day of employment – contended failure was also a valid reason for dismissal during hearing – respondent did not act on the failure at time and continued applicant's employment without consequence – Commission held employer not entitled to dismissal for earlier instance of misconduct where prior misconduct not acted upon or condoned [*Giang Son Tra*] – Commission held drug test failure not a valid reason for dismissal – Commission found applicant was not notified of valid reason for dismissal before termination decision was made – Commission found the applicant was not given an opportunity to respond to reason for termination – found no unreasonable refusal for applicant to have a support person during discussions for dismissal on basis that no relevant discussions were held him – found the applicant was warned about his performance and was not notice employment at risk – Commission held while the applicant was warned there was insufficient time afforded to allow an opportunity to improve – Commission considered other relevant matters – found applicant informed that his remuneration would be altered with effect from September as sanction for poor sales but shortly after received telephone call advising him to resign or be dismissed – Commission found near total lack of procedural fairness in dismissal – respondent alleged applicant falsified resume on basis of his relationship status at time of employment – Commission found applicant's relationship status irrelevant and should have formed no part in decision to employ – held relationship information contained in resume had no bearing on fairness to dismiss – further observed if respondent was making decision to employ or not employ people in certain relationships there was real possibility respondent in breach of anti-discrimination legislation – Commission held dismissal was unfair because it lacked procedural fairness – applicant did not seek reinstatement – Commission considered general approach to compensation [*Tabro Meat*] – found applicant would have remained in employment for a further four weeks – deductions made for notice of termination paid and remuneration earned in new employment – declined to make deduction for misconduct because misconduct was largely performance related – Commission ordered respondent pay $1,818.18 plus superannuation.

U2023/10078 [2024] FWC 678
Lee C Melbourne 4 April 2024

Francis v Volunteer Marine Rescue Assoc Qld Inc

GENERAL PROTECTIONS – dismissal dispute – outer limits contract – s.365 Fair Work Act 2009 – application to deal with general protections dispute involving dismissal – jurisdictional objection raised – applicant not dismissed on employer's initiative – Commission to consider whether applicant was dismissed in order to deal with general

protections dispute [*Milford*] – applicant employed from 5 January 2021 under fixed-term contract with possibility for renewal on 2 July 2021 – second contract from 5 July 2021 to 30 June 2022 – applicant continued working after 30 June 2022 – third contract issued on 28 September 2022 – third contract outlined renewal and pay increase – identical terms and conditions to previous contract – applicant returned signed copy on 5 December 2022 – applicant suspended following misconduct investigation 25 January 2023 – allegations were unsubstantiated – soon after investigation concluded respondent indicated contract would not be extended – applicant's employment ceased 30 June 2023 – respondent argued cessation was due to effluxion of time [*Alouani-Roby*] – Commission considered decision in *Navitas* in conjunction with s.386 FW Act – analysis whether termination at initiative of employer conducted by reference to termination of employment relationship rather than employment contract [*Navitas*] – found employment relationship existed between applicant and respondent since January 2021, including period where employment contract expired 'on paper' but employment relationship continued – applicant's third contract did not represent that employment relationship would end at a particular date – found respondent had funding for applicant's role but determined not to provide further contract – observed employment relationship would have continued unless respondent did something otherwise to communicate it wished to sever employment relationship – termination of employment initiated by respondent [*Navitas*] – Commission held applicant was dismissed by respondent – respondent's jurisdictional objection dismissed – application to proceed.

C2023/4256 [2024] FWC 978
Hunt C Brisbane 16 April 2024

Poltorasky v Pinnacle Hire P/L

GENERAL PROTECTIONS – application to dismiss by employer – deed of settlement – ss.365, 587 Fair Work Act 2009 – applicant's employment in IT Support function ended after alleged misconduct – contested whether applicant resigned or constructively dismissed – respondent advised applicant likely his employment would be terminated or he could resign as alternative to dismissal – applicant opted for resignation and entered into Deed of Release (Deed) with respondent as part of resignation – Deed included payment of amount equal to two month's gross pay and one-way release whereby applicant released respondent from all or any present or future claims, further respondent could plead Deed was bar to any relevant claim – respondent objected to s.365 application on basis release contained in Deed was jurisdictional bar – no dispute applicant signed Deed – enforceability of Deed contested – Commission found Deed was jurisdictional bar and held application could not proceed – observed Commission's powers limited by FW Act and no power conferred by FW Act to set aside Deed – whether to dismiss application considered – contrasted objects of part of FW Act dealing with general protections and objects of part dealing with unfair dismissal – observed unfair dismissal objects focus on balancing interests of employers and employees and emphasise 'quick, flexible and informal' procedures – observed general protections objects focused solely on protection of rights and persons and providing effective relief – Commission has general power to dismiss application under s.587 and implied power to decline to act on application which fails for want of jurisdiction [*Lewer*] – Commission can also adjourn a matter rather than dismiss – noted issue of Deed's validity remained – if application dismissed and applicant subsequently had Deed set aside, he would need to seek extension of time to again challenge dismissal in Commission – found objects of general protections part squarely directed at protecting persons and providing effective relief – found if Deed set aside but subsequent general protections application not granted extension of time this would be contrary to objects as applicant lost access to Part 3-1 protections due to Deed that had been set aside – significant prejudice for applicant in this circumstance – noted if application adjourned respondent would also face some prejudice – held prejudice suffered by applicant for dismissing application significantly exceeded respondent's prejudice if application adjourned – held dismissal of application would be delayed until 29 April 2024 – if originating application filed in a court seeking to set aside Deed by that date, matter

would be called back on – if no court challenge to set aside Deed by that date, application will be dismissed.

C2023/8196 [2024] FWC 898
Durham C Brisbane 8 April 2024

Mamo v Life Streaming P/L

TERMINATION OF EMPLOYMENT – Small Business Fair Dismissal Code – relationship breakdown – ss.387, 394 Fair Work Act 2009 – Mr MacDonald established Asset Footage business in 2019 while in personal relationship with applicant – respondent incorporated on 21 September 2021 to perform live streaming operations of Asset Footage – applicant employed as company secretary and employee – Mr MacDonald as director and employee – personal relationship broke down in July 2023 and ended August 2023 – applicant summarily dismissed on 2 September 2023 for alleged serious misconduct, including unauthorised transfers from Life Streaming account and changing email account passwords to block Mr MacDonald's access – respondent sought meeting on 2 September to discuss alleged misconduct – applicant declined as considered claims 'fake', leading to termination – on 12 September 2023 applicant sought remedy under s.394 – respondent initially raised jurisdictional objection that applicant had not completed minimum employment period and dismissal was consistent with Small Business Fair Dismissal Code – respondent later accepted applicant completed minimum employment period – determinative conference conducted – Commission reiterated s.390 has two limbs that must both be met, considered whether applicant protected from unfair dismissal and, if so, whether unfairly dismissed – no dispute applicant's employment terminated at initiative of respondent – held applicant dismissed within meaning of s.385(a) – Commission considered whether alleged misconduct occurred and constituted valid reason for dismissal – respondent claimed funds held by Life Streaming were only used for work-related purposes – applicant claimed considerable overlap existed between business and personal transactions – Commission upheld applicant's view, noting issues with evidence given by respondent – agreed extensive overlap existed between personal and professional relationships – found transactions around time of relationship breakdown part of deteriorating personal relationship, rather than deliberate misconduct – applicant submitted password changed by respondent – claimed change of password not intended to lock Mr MacDonald out – respondent provided evidence to establish password changed by applicant – Commission found passwords were deliberately changed by applicant as part of personal breakdown with Mr MacDonald – prior to dismissal, respondent had only two employees – Commission outlined principal test for applying Small Business Fair Dismissal Code – 'First, there needs to be a consideration whether, at the time of dismissal, the employer held a belief that the employee's conduct was sufficiently serious to justify immediate dismissal. Secondly it is necessary to consider whether that belief was based on reasonable grounds' [*Pinawin*] – Commission found first element met, but not satisfied respondent's belief held on reasonable grounds – found applicant's conduct did not constitute misconduct within an employment relationship – transactions occurred as part of family law dispute, rather than in employment relationship – Life Streaming did not carry out reasonable investigation into allegations against applicant – Commission noted not appropriate for Mr MacDonald to investigate applicant's conduct given hostile breakdown of close personal relationship – highlighted applicant's conduct not sufficiently serious to warrant immediate dismissal – Commission considered whether dismissal harsh, unjust or unreasonable under s.387 – held applicant's conduct in processing transactions from respondent's account for personal purposes did not constitute misconduct in employment relationship – noted interrelatedness of professional and personal matters in this case – held no valid reason for dismissal – as no valid reason notification for reason of dismissal (s.387(a)) not strictly relevant – observed if valid reason was established 24 August allegations letter would have constituted adequate notice – Commission noted: 'An employer cannot merely pay 'lip service' to giving an employee an opportunity to respond to allegations' – applicant's refusal to attend meeting irrelevant to s.387(c) – applicant not unreasonably refused support person – unsatisfactory performance

irrelevant as dismissal concerned alleged misconduct – Commission accepted size of Life Streaming impacted procedures but that these should have been performed by external party – found applicant unfairly dismissed – dismissal additionally harsh given context of relationship breakdown – applicant did not seek reinstatement – Commission considered appropriate compensation under s.392(2) – applied [*Sprigg*] formula to assess compensation – examined remuneration employee would have received, monies earned since termination and impact of contingencies – determined applicant would have remained with respondent for further month – applicant awarded $4,160 less taxation plus superannuation of $457.60.

U2023/8732 [2024] FWC 780
Crawford C Sydney 27 March 2024

Australian Workers' Union, The v Superior Energy Services (Australia) P/L

CONDITIONS OF EMPLOYMENT – stand down – s.524 Fair Work Act 2009 – respondent provided employees to work on Esso's rig in the Bass Strait – employees took part in industrial action organised by applicant – industrial action impacted rig operations such that Esso informed respondent work would be suspended – respondent initiated a relocation of affected employees then issued a stand down notice to approximately 90 employees – applicant submitted respondent was not entitled to stand down employees – applicant contended terms of enterprise agreement between applicant, respondent and employees prevented the respondent from relying on s. 524(1) of FW Act – applicant submitted where parties have established arrangements for stand down in an agreement, stand down provisions in s.524(1) are displaced pursuant to s.524(2) [*Wingham*] – applicant contended cl 28 of the agreement ('Stand down for Rig Repairs') provided for circumstances when respondent could stand down employees so cl 28 needed to be met before respondent could lawfully stand employees down – in the alternative, applicant contended respondent was not entitled to stand down employees pursuant to s. 524(1) as elements for shut down under that provision were not met – Commission considered whether stand down terms in agreement displaced s. 524(1) – held such terms only displace FW Act to the extent that circumstances in s.524(1) are dealt with by the agreement – found provision in agreement for stand down did not cover the circumstances listed in s.524(1) and therefore did not displace s.524(1) – in deciding whether respondent entitled to stand down employees pursuant to s. 524(1), Commission adopted *The Peninsula School* ('Could employees have been usefully employed during the stand down? Was there a stoppage of work? Could the employer have been reasonably held responsible for the stoppage?') – formed preliminary view useful employment available for 9 stood down employees – observed small but significant section of stand down potentially unauthorised – found when Esso suspended respondent's services and required employees be removed from rig, substantive work of employees had been removed – stoppage of work found – found employer could not be reasonably held responsible for stoppage of work – and found the respondent was entitled under s.524 (1) to stand down the majority of its employees but not those for whom useful employment was available.

C2023/7467 [2024] FWC 806
Allison C Melbourne 28 March 2024

Casis v JD.COM AUSTRALIA P/L

GENERAL PROTECTIONS – jurisdiction – multiple applications – ss.365, 386, 725 Fair Work Act 2009 – applicant lodged pursuant to s.365 on 18 September 2023, alleged contravention by dismissal – respondent raised jurisdictional objection as host employer of applicant under labour hire agreement, therefore could not have dismissed within meaning of s.386 – applicant had separately filed earlier, unresolved unfair dismissal claim against the labour hire company on 4 September 2023 – Commission contemplated s.725 preventing multiple actions – 'a general protections dismissal dispute application cannot be made if another application or complaint dealing with the dismissal (such as an unfair dismissal application) has also been

made' [*Corrie*] – guided by similar consideration in *Alex*, Commission found applicant prohibited by s.725 from bringing two different claims relating to the same dismissal, as unfair dismissal application was made first and not withdrawn or dismissed as being outside jurisdiction before general protections action initiated – Commission entertained if s.725 did not apply, whether respondent was employer of applicant – per s.386 dismissal at initiative of employer requires that person to have first been employed by that employer – applicant asserted they were employed under trilateral agreement with respondent and labour hire company – contended respondent exercised control over employment on daily basis and made decision to terminate applicant – Commission noted offer of employment expressly made by labour hire company in writing, which applicant accepted – labour hire company managed key aspects of employment including payroll, taxation, superannuation and workers compensation – interposition of labour hiring agency between its clients and the workers it hires out to them does not result in an employee-employer relationship between client and workers [*Damevski*] – fact that worker supplied by labour hire company works under discretion of hirer not necessarily inconsistent with proposition that worker's contract is with labour hire company, not hirer [*Tooheys*] – employment contract identified labour hire company as employer, respondent as client, acknowledgement of no legal relationship between applicant and client – applicant made earlier unfair dismissal application against labour hire company, thereby expressly accepting they were employer – Commission held no grounds for concurrent claims, nor dismissal claim against respondent – application dismissed.

C2023/5690 [2024] FWC 809
Thornton C Adelaide 28 March 2024

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Websites of Interest

Department of Employment and Workplace Relations - https://www.dewr.gov.au/workplace-relations-australia - provides general information about the Department and its Ministers, including their media releases.

AUSTLII - www.austlii.edu.au/ - a legal site including legislation, treaties and decisions of courts and tribunals.

Australian Government - enables search of all federal government websites - www.australia.gov.au/.

Federal Register of Legislation - www.legislation.gov.au/ - legislative repository containing Commonwealth primary legislation as well as other ancillary documents and information, and the Federal Register of Legislative Instruments (formerly ComLaw).

Fair Work Act 2009 - www.legislation.gov.au/Series/C2009A00028.

Fair Work (Registered Organisations) Act 2009 - www.legislation.gov.au/Series/C2004A03679.

Fair Work Commission - www.fwc.gov.au/ - includes hearing lists, rules, forms, major decisions, termination of employment information and student information.

Fair Work Ombudsman - www.fairwork.gov.au/ - provides information and advice to help you understand your workplace rights and responsibilities (including pay and conditions) in the national workplace relations system.

Federal Circuit and Family Court of Australia - https://www.fcfcoa.gov.au/.

Federal Court of Australia - www.fedcourt.gov.au/.

High Court of Australia - www.hcourt.gov.au/.

Industrial Relations Commission of New South Wales - www.irc.justice.nsw.gov.au/.

Industrial Relations Victoria - www.vic.gov.au/industrial-relations-victoria.

International Labour Organization - www.ilo.org/global/lang--en/index.htm - provides technical assistance primarily in the fields of vocational training and vocational rehabilitation, employment policy, labour administration, labour law and industrial relations, working conditions, management development, co-operatives, social security, labour statistics and occupational health and safety.

Queensland Industrial Relations Commission - www.qirc.qld.gov.au/index.htm.

South Australian Employment Tribunal - www.saet.sa.gov.au/.

Tasmanian Industrial Commission - www.tic.tas.gov.au/.

Western Australian Industrial Relations Commission - www.wairc.wa.gov.au/.

Workplace Relations Act 1996 - www.legislation.gov.au/Details/C2009C00075

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