



DECISION

Fair Work Act 2009

s.158—Application to vary or revoke a modern award

Aged Care Award 2010

(AM2020/99 and AM2021/63)

Nurses Award 2020

(AM2021/63)

Social, Community, Home Care and Disability Services Industry Award 2010

(AM2021/65)

JUSTICE HATCHER, PRESIDENT

VICE PRESIDENT ASBURY

DEPUTY PRESIDENT O'NEILL

PROFESSOR BAIRD

DR RISSE

SYDNEY, 11 SEPTEMBER 2024

Applications to vary modern awards – work value – Aged Care Award 2010 – Nurses Award 2020 – Social, Community, Home Care and Disability Services Industry Award 2010 – final determinations issued.

[1] In our previous decision in these matters issued on 27 June 2024, we expressed the provisional view that:

... if [assistants in nursing working in home care, as opposed to in residential aged care] exist (as the ANMF appears to assert), they should be covered by the SCHADS Award, and the exclusion from coverage in the Nurses Award should make clear that it applies to aged care AINs in both residential and home care.¹

[2] We further noted:

On one view, the consequence of the adoption of this provisional view would be that a translation table for AINs should be included in the determination for the SCHADS Award in equivalent terms to that in the determination for the Aged Care Award (see clause I.2), and also that there needs to be a grandparenting provision protecting AINs' entitlement to an additional week's annual leave in the same terms as that in the Aged Care Award determination (cl 28.3). An alternative view is that these steps are not necessary because the issue of AINs performing home care work is only hypothetical or of negligible practical significance. ...²

[3] Parties were invited to comment on the above by 12 July 2024. No submissions were received opposing our provisional view and, accordingly, we confirm that provisional view. As set out in the *Stage 3 decision*,³ we consider that the variations are necessary to achieve and

give effect to the modern awards objective and the minimum wages objective, including those aspects of the objectives concerned with gender equality. We have included a translation table for assistants in nursing currently covered by the *Nurses Award 2020* who will from 1 January 2025 be classified as ‘home care employees—aged care’ under the *Social, Community, Home Care and Disability Services Industry Award 2010* (SCHADS Award), and a grandparenting provision in relation to their additional week of annual leave in the variations to be made, for more abundant caution.

[4] Determinations varying the *Aged Care Award 2010*, *Nurses Award 2020* and *Social, Community, Home Care and Disability Services Industry Award 2010* are issued with this decision. The determinations operate from 1 January 2025. This concludes the work value proceedings save for the aspects relating to registered nurses and enrolled nurses, which we note are listed for hearing next week.



PRESIDENT

Written submissions:

Aged & Community Care Providers Association and Australian Business Industrial: 12 July 2024.

Australian Nursing and Midwifery Federation: 12 July 2024.

Health Services Union: 12 July 2024.

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¹ *Aged Care Award 2010; Nurses Award 2020; Social, Community, Home Care and Disability Services Industry Award 2010* [\[2024\] FWCFB 298](#) [44].

² *Ibid* [45].

³ *Aged Care Award 2010; Nurses Award 2020; Social, Community, Home Care and Disability Services Industry Award 2010* [\[2024\] FWCFB 150](#) [209]–[212], [277] –[278].