

# CFMEU

## CONSTRUCTION

### IN THE FAIR WORK COMMISSION

**Matter Numbers:** AM2016/23, AM2014/260, 274 and 278

*Fair Work Act 2009*

Part 2-3, Div 4 –s.156 - 4 yearly review of modern awards

### Construction Awards

#### Building and Construction General On-Site Award 2010

[MA000020]

#### Joinery and Building Trades Award 2010

[MA000029]

#### Mobile Crane Hiring Award 2010

[MA000032]

*4 yearly review of modern awards – award stage –Group 4C awards*

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**CONSTRUCTION, FORESTRY, MINING AND ENERGY UNION (CONSTRUCTION &  
GENERAL DIVISION) APPLICATION FOR PERMISSION TO BE REPRESENTED AT  
THE HEARING BY A LAWYER**

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28th March, 2017

<b>Construction, Forestry, Mining and Energy Union (Construction and General Division)</b> ABN 46 243 168 565	<b>Contact Person:</b> Stuart Maxwell, Senior National Industrial Officer	<b>Address for Service:</b> Level 9, 215-217 Clarence Street Sydney NSW 2000	<b>T:</b> (02) 8524 5800 <b>F:</b> (02) 8524 5801 <b>E:</b> <a href="mailto:hearings@fed.cfmeu.asn.au">hearings@fed.cfmeu.asn.au</a> <a href="mailto:smaxwell@cfmeu.org">smaxwell@cfmeu.org</a>
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1. The CFMEU seeks permission pursuant to s.596(1) of the Fair Work Act (**FW Act**) to be represented by Steven Crawshaw SC at the hearing in relation to the subject matters of:
  - (i) The admissibility of evidence
  - (ii) Work, health and safety and allowances related thereto.
  - (iii) Industry specific redundancy scheme.
  - (iv) Coverage of the award.
  
2. Section 596(2) of the FW Act provides the Fair Work Commission with a discretionary power to allow legal representation where one or more of the requirements of s.596(2) are satisfied. The exercise of that discretion is not confined to consideration of only those matters set out at s.596(2)(a) – (c) of the FW Act: see *Warrell v Walton* [2013] FCA 291 at [24].
  
3. Mr Crawshaw has extensive experience in the subject matters as follows:
  - (i) He has appeared in numerous cases involving work, health and safety legislation.
  - (ii) He has appeared in cases involving severance benefits in building and construction awards stretching back over 20 years.
  - (iii) He has appeared in Full Bench cases concerning coverage of the award.
  
4. Representation by counsel will assist the Commission, including by ensuring that relevant information is before the Commission and appropriate submissions are made to allow proper determination of questions relevant to the matters.
  
5. The CFMEU contends that pursuant to section 596(2)(a) of the FW Act the Commission should grant permission to the CFMEU to be represented by Mr Crawshaw as this would enable the matter to be dealt with more efficiently, taking into account the complexity of the matters.
  
6. The matters are complex because they involve the power exercised by the Commission, important and difficult legal construction and reasoning issues, the interpretation of legislation, have a long history and involve consideration of previous Full Bench decisions.
  
7. In all of the circumstances, including the reasons set out above, the Full Bench should grant the CFMEU permission to be legally represented.

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