



**Professionals
Australia**

GPO Box 1272
Melbourne
Victoria 3001

20 March 2017

Mr Joshua Martin
The Associate to Vice President Catanzariti
Fair Work Commission
Melbourne Registry

By Email: chambers.catanzariti.vp@fwc.gov.au.

Dear Mr Martin

**S156 – 4 yearly review of modern awards
Health Professionals and Support Services Award 2010 – substantive issues**

We refer to the Directions of Vice President Catanzariti of 23 November 2016 and now enclose draft Confidentiality Order with 3 Exhibits (being 3 redacted APESMA Witness Statements).

We will forward the original witness statements to the chambers of Vice President Catanzariti shortly under cover of a separate letter.

Please do not hesitate our Michelle Anthony on 0401 935 064 if you wish to discuss this matter.

Yours sincerely

Michelle Anthony
National Legal Officer

**Professionals Australia (also known as The
Association of Professional Engineers
Scientists and Managers Australia)**

manthony@professionalsaustralia.org.au

(03) 9695 8809

Level 1, 163 Eastern Road

South Melbourne VIC 3205



**Professionals
Australia**

GPO Box 1272
Melbourne
Victoria 3001

CC:

AMOD Team

amod@fwa.gov.au



DRAFT ORDER

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards—substantive issues—lay witness evidence

(AM2016/31)

HEALTH PROFESSIONALS AND SUPPORT SERVICES AWARD 2010

[MA000027]

VICE PRESIDENT CATANZARITI

MELBOURNE, 20 MARCH 2017

Confidentiality Order – Exhibit APESMA - 1

A. Pursuant to s.594 of the *Fair Work Act 2009* (Cth) (**the Act**), it is ordered that:

1. **Exhibit APESMA – 1** (the APESMA exhibit 1) is not published on the Fair Work Commission website or otherwise, save and except in the redacted form here attached.
2. Access to the unredacted form of the APESMA exhibit 1 is granted to the following persons for the sole purpose of the ‘substantive issues’ matter AM2016/31 in the 4 yearly review of modern awards:
 - a. Employees of the Fair Work Commission who need to deal with the material in the ordinary course of their duties;
3. Any other persons or party who wish to view the unredacted form of the APESMA Exhibit may apply to the Fair Work Commission and the application shall be determined following a hearing involving affected parties.

Confidentiality Order – Exhibit APESMA - 2

B. Pursuant to s.594 of the *Fair Work Act 2009* (Cth) (**the Act**), it is ordered that:

4. **Exhibit APESMA – 2** (the APESMA exhibit 2) and the two attachments to that exhibit) is not published on the Fair Work Commission website or otherwise, save and except in the redacted form (without exhibits) here attached.

5. Access to the unredacted form of the APESMA exhibit 2 and its attachments is granted to the following persons for the sole purpose of the 'substantive issues' matter AM2016/31 in the 4 yearly review of modern awards:
 - b. Employees of the Fair Work Commission who need to deal with the material in the ordinary course of their duties;
 6. Any other persons or party who wish to view the unredacted form of the APESMA Exhibit and its attachments may apply to the Fair Work Commission and the application shall be determined following a hearing involving affected parties.
- C. Pursuant to s.594 of the *Fair Work Act 2009* (Cth) (**the Act**), it is ordered that:
7. **Exhibit APESMA – 3** (the APESMA exhibit 3) is not published on the Fair Work Commission website or otherwise, save and except in the redacted form here attached.
 8. Access to the unredacted form of the APESMA exhibit 3 is granted to the following persons for the sole purpose of the 'substantive issues' matter AM2016/31 in the 4 yearly review of modern awards:
 - c. Employees of the Fair Work Commission who need to deal with the material in the ordinary course of their duties;
 9. Any other persons or party who wish to view the unredacted form of the APESMA Exhibit may apply to the Fair Work Commission and the application shall be determined following a hearing involving affected parties.
- D. Liberty to apply generally on these matters is granted.

VICE PRESIDENT CATANZARITI

Annexure 1:

Exhibit APESMA - 1 (redacted)

Fair Work Act 2009

s.156—4 yearly review of modern awards

(AM2016/31)

**HEALTH PROFESSIONALS AND
SUPPORT SERVICES AWARD 2010**

Four yearly review of modern awards

Section 156 – 4 yearly review of modern awards

Exhibit APESMA – 1

OUTLINE OF WITNESS STATEMENT

[REDACTED]

1. I, [REDACTED], of [REDACTED] am employed as an interpreter by [REDACTED]
[REDACTED]
2. My qualifications include:
 - a. [REDACTED];
 - b. [REDACTED];
 - c. Registered NAATI level 3 professional interpreter
3. I have been working as an interpreter in the interpreting industry for approximately 15 years. Prior to that I was a [REDACTED].
4. I commenced my employment with [REDACTED] in approximately [REDACTED] and so the duration of my employment has been approximately [REDACTED].

5. [REDACTED] is an agency that supplies interpreters and translators on an on-hire basis to clients in the health and other industries. I work primarily as an on-site interpreter, mainly for medical and legal clients.
6. The majority of the jobs I am required to attend will be for a minimum 90 minutes or two hour booking, however sometimes the booking will be for a whole day and VicRoads bookings are often for only 60 minutes.
7. I estimate that 85% to 90% of jobs allocated to me by my employer will be in the health industry, interpreting for patients and assisting health care professionals. Examples of jobs that have been allocated to me over the past month or two include:
 - a. Peter Macallum Cancer Institute in the City;
 - b. HARP, which is an organization run out of St Vincents Hospital which provides home visits for patients. For these jobs I travel to the patient's home address and meet the health care professional out the front of the address and then go in together to conduct the meeting with the patient.
 - c. ACAS assessments – which are conducted typically for elderly patients by health care professionals to determine whether the patient requires extra services or the type of nursing home they may be admitted to;
 - d. Kingston Centre – will often organize for me to interpret for patients when one of their doctors or other health professionals is required to conduct a psychiatric assessment or a meeting for rehabilitation purposes. These will often involve home visits when I would travel to the patient's address, meet the doctor or health professional out the front and then go in together to the patient's home to conduct the assessment or treatment.
 - e. Independent doctor assessments – for these I will typically attend a doctor's surgery in the city and interpret for patients, often where the individual may have a WorkCover claim.
8. The remaining 10% to 15% of jobs allocated to me tend to be for a variety of interpreting work that aren't specifically in the health industry for example I will

attend VicRoads to interpret for [REDACTED] clients sitting for tests in the process of obtaining their driving licence.

9. I am aware of the Australian Institute of Interpreters and Translators Inc. (AUSIT) Code of Ethics and comply with it when carrying out my professional duties as an interpreter.

10. I support the application by my union, the Association of Professional Engineers Scientists Managers Australia (APESMA) to vary the Health Professionals and Support Services Award 2010 such that Interpreters and Translators are included in the list of Common Health Professionals in Schedule C (current version) of the Award. I believe that interpreters and translators belong to a profession and as such we should be covered by an occupational award. .In my own case, approximately 85% of the interpreting jobs I perform are within the health industry and therefore will be covered by the current version of the Award. For the remaining 15% of the interpreting jobs I perform, I believe I am not award covered when performing those jobs. It would provide greater certainty to both employees and employers and would be common sense that we are covered by the same award conditions whether interpreting in a specifically health industry environment or one unrelated to health. Award coverage by an occupational award will provide me with the certainty that comes with knowing that employers seeking to employ me as an interpreter by law must provide certain minimum standards and entitlements to their employees. Currently I consider employed interpreters to exist in a 'grey area' meaning we have to an extent slipped through the cracks of award coverage.

Association of Professional Engineers Scientists Managers Australia (APESMA)

17 March 2017

Annexure 2:

Exhibit APESMA - 2 (redacted)

Fair Work Act 2009

s.156—4 yearly review of modern awards

(AM2016/31)

**HEALTH PROFESSIONALS AND
SUPPORT SERVICES AWARD 2010**

Four yearly review of modern awards

Section 156 – 4 yearly review of modern awards

Exhibit APESMA-2

OUTLINE OF WITNESS STATEMENT

[REDACTED]

1. I, [REDACTED] [REDACTED] of [REDACTED] [REDACTED], [REDACTED] [REDACTED] am employed as an interpreter by [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

[REDACTED]

2. My qualifications include:
- a. NAATI Accreditation at Professional Level in Interpreting and Translation;
 - b. Advanced Diploma in Interpreting and Translating Royal Melbourne Institute of Technology (RMIT), graduated [REDACTED].
3. I am qualified to work as an Italian Interpreter and Translator (to translate both from Italian to English and English to Italian) however I only work as an Interpreter in my current employment.
4. In order to maintain my NAATI Accreditation I am required to undergo a 'Revalidation' process each 3 years. I completed the Revalidation process in 2015

by submitting my application to NAATI which confirmed that over the previous 3 year period I had attended various compulsory professional development seminars to obtain the required number of Professional Development points. I estimate that I attended at least 3 professional development seminars which I paid for myself and the total cost was in the vicinity of \$300.00.

5. I am aware of the Australian Institute of Interpreters and Translators Inc. (AUSIT) Code of Ethics and as a NAATI accredited Professional Interpreter I am bound to comply with and implement the rules set out in the code every day at work when carrying out my professional duties as an interpreter.
6. I commenced working for [REDACTED] and have only accepted work from the one agency since then. When I first commenced working as an interpreter I had young children and it suited me to work only for the one agency and in the beginning I took on only a small number of interpreting jobs (on average 1 or two per week).
7. In 2015 and 2016 I worked at a higher capacity, typically performing 2 and less often 3 interpreting jobs per day. I can work up to 4 jobs in one day but it is all dependent on the location of the jobs as to how many I can work in one day. Generally assignments are booked for either one hour or 90 minutes. When accepting an assignment I have to allow time to travel to the location from the last job, in addition to allowing time to park and find the actual room or office in which the job is scheduled to occur. I make myself available to work Monday to Friday across usual business hours. This means that currently I am working at full capacity or the equivalent of full time in terms of the time I devote to my occupation. I do not get paid however for the time I spend travelling to jobs and also do not get paid travel expenses.
8. The rate at which I get paid is \$68.00 per 90 minute assignment. My recollection is that the last time the rate was increased was approximately 2012, when it went up from \$66.00 to \$68.00.

9. Now produced, shown to me, marked ' [REDACTED] and attached to my witness statement is a copy of my [REDACTED]. [REDACTED] confirms the rate at which I am paid for each booking, and the location of each booking. The document provides confirmation that the jobs I am booked for can be at dispersed locations, requiring me to take on a maximum of only 2, 3 and occasionally 4 interpreting jobs each business day. [REDACTED] confirms that my total earnings (gross) for the month of December was [REDACTED]. My total monthly earnings are typically in the vicinity of \$3,000.00. Occasionally they may be slightly above \$3,000.00 and sometimes it is slightly below \$3,000.00. This equates to an annual income in the vicinity of \$36,000.00 gross, from which amount I am required to pay my own parking, travel and Compulsory Professional Development expenses.
10. Now produced, shown to me, marked ' [REDACTED] and attached to my witness statement is a copy of my [REDACTED]. The pay slip confirms that my employer pays superannuation in respect of my employment and withholds Pay As You Go (PAYG) tax from my earnings.
11. I support the application by my union Association of Professional Engineers Scientists Managers Australia (APESMA) to vary the Health Professionals and Support Services Award 2010 to include interpreters and translators in the List of Common Health Professionals located in schedule C of the current award (Schedule B to the Exposure Draft). Interpreters (such as myself) and Translators who provide language services within the health industry are qualified, accredited professionals who work in accordance with the AUSIT Code of Ethics and Conduct and therefore it would be appropriate for our profession to be included in the list of Health Professionals in schedule C to the Award.

Association of Professional Engineers Scientists Managers Australia (APESMA)

17 March 2017

Annexure 3:

Exhibit APESMA - 3 (redacted)

Fair Work Act 2009

s.156—4 yearly review of modern awards

(AM2014/204)

**HEALTH PROFESSIONALS AND
SUPPORT SERVICES AWARD 2010**

Four yearly review of modern awards

Section 156 – 4 yearly review of modern awards

Exhibit APESMA - 3

OUTLINE OF WITNESS STATEMENT

[REDACTED]

1. I, [REDACTED] of [REDACTED] am employed as an interpreter by [REDACTED].

2. My qualifications include:
 - a. NAATI Accreditation at Professional Level in Interpreting and Translation;
 - b. [REDACTED]
[REDACTED]
 - c. [REDACTED]
[REDACTED];
 - d. [REDACTED]
[REDACTED].

3. I was employed as an interpreter by the [REDACTED], a body established by the Victorian Government, from approximately [REDACTED]. [REDACTED] I was a full time employee and paid an annual salary. I reported to the

██████████ every morning and then had access to a fleet of vehicles, one of which I would use to attend the various interpreting appointments I had to attend that day. I recall that I was able to salary sacrifice and had a lot of Professional Development opportunities provided to me by my employer.

4. In approximately 2003 the State Government ceased funding ██████ and the organization closed. I started to work as a 'freelance' interpreter and registered at a couple of agencies, ████████████████████. I was engaged as an independent contractor and worked as a freelance interpreter for approximately 6 to 8 months but over that time came to the realization that that working arrangement was an untenable one for me as the pay was low and the expenses (all borne by the interpreters) were high. I had to pay for my own professional indemnity insurance, there was no superannuation and I had all the expenses of running my own vehicle. After 6 to 8 months I started looking for full time employment and then left interpreting for a number of years to work for a Multi-Cultural Service performing Community Development work.
5. In August 2016 I returned to interpreting work when I became employed as an interpreter by ████████████████████. I am currently employed by ██████ ██████ on a casual basis and typically work approximately 6 hours per week. The interpreting jobs I am booked to perform can vary from having to attend a patient's home to interpret for an Occupational Therapist or I may be booked to attend the ████████████████████ where I can assist for up to 3 or 4 patients in a 3 hour period.
6. In August 2016 I filled in for the Full Time Greek Interpreter at ████████████████████ for two and a half weeks. My more typical work load with ████████████████████ is only approximately 6 hours however and this is less than the amount of work I would like to do. I am considering registering with an interpreting agency to increase the hours of interpreting work I am doing each week.

7. Recently as part of my employment with [REDACTED], I interpreted for a 2 hour neuropsychological assessment of an elderly patient. There are certain tools used by the Neuropsychologist such as the Boston Scale which is used for memory testing and assessment of logical thinking which are dependent on a lot of specific vocals which can mean the process is extremely challenging when questions and responses are transferred from one language to another. This would be a fairly typical example of the type of patient, I am often required to provide interpreting services for (aged care assessments and patients suffering from early stage dementia). These assessment require very accurate interpreting, the instructions have to be given very specifically and clearly to elicit a meaningful response. Sometimes its necessary to brief the practitioners I'm interpreting for on some of the cultural or historical factors that can impact on responses from elderly Greek patients (for example where a concept that may be clearly understood in an American environment has no equivalent for an elderly Greek person who spent their childhood in Greece.).

8. I am well aware of the dangers of unqualified interpreters or family members being used to interpret in a health setting. If certain significant pieces of information are not interpreted or not interpreted accurately, this can cause an inaccurate assessment, which can lead to an inaccurate diagnosis and treatment plan plus misinformed patients. During my early career as an interpreter for [REDACTED] I was required to interpret for a doctor advising a patient who was about to go through bypass heart surgery that one of the risks associated with the anaesthetic could be death. The patient's son who was present became very angry with me for translating the risk to his mother and said "You've now put the fear of God into my mother". This example illustrates the danger of family members interpreting as there can be a temptation to censure or edit the subject matter. During my current employment I have often been told when interpreting at [REDACTED] "its OK you don't need to worry, she has her daughter with her and she speaks English". In these instances I am assertive in pointing out the hospital policies (which will state that family members or unqualified interpreters are not permitted

to provide interpreting services) and that professional interpreters are required for informed consent or there can be legal ramifications.

9. I am aware of the Australian Institute of Interpreters and Translators Inc. (AUSIT) Code of Ethics and as a NAATI accredited Professional Interpreter I am bound to comply with the rules set out in the code when carrying out my professional duties as an interpreter.

10. I support the application by my union Association of Professional Engineers Scientists Managers Australia (APESMA) to vary the Health Professionals and Support Services Award 2010 to include interpreters and translators in the List of Common Health Professionals located in schedule C of the current award (Schedule B to the Exposure Draft). Interpreters (such as myself) and Translators who provide language services within the health industry are qualified, accredited professionals who work in accordance with the AUSIT Code of Ethics and Conduct and therefore it would be appropriate for our profession to be included in the list of Health Professionals in schedule C to the Award. I am currently considering registering with an interpreting agency to obtain more hours of interpreting work per week. I would expect that a lot of any agency work I do will continue to be performed within the health industry but some may also be performed in (for example), a court or tribunal. I want to have the certainty of being covered by one set of award conditions whenever and wherever I perform my interpreting duties. This is the kind of certainty of working conditions members of other professions (such as Social Workers) currently listed on the List of Common Health Professionals, currently enjoy.

Association of Professional Engineers Scientists Managers Australia (APESMA)

20 March 2017