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26 April 2016

The Hon. Justice Ross, President
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

Dear Justice Ross,

Re. AM2016/8 Payment of wages on termination of employment

In a Statement issued by Your Honour on 24 February 2016 ([2016] FWC 1191 at [17]), reference was made to variations sought by the Australian Industry Group (Ai Group) and other employer organisations to multiple awards in respect of the payment of wages on termination. At paragraph [8] of a Statement issued on 23 March 2016 ([2016] FWC 1838), Your Honour indicated that these claims will be referred to a separately constituted Full Bench.

The *Manufacturing and Associated Industries and Occupations Award 2010* (Manufacturing Award) is one of the awards that Ai Group seeks to vary. On 25 February 2016, Commissioner Bissett issued a Statement regarding the 4 yearly review (Review) of the Manufacturing Award (AM2014/75) and noted that the relevant variation is also sought in respect of other awards. The Commissioner directed Ai Group to:

- Identify the claim;
- Identify the awards relevant to the claim and the stage of the Review to which they have been allocated; and
- Submit draft determinations for each of those awards.

We write in accordance with the Commissioner's direction.

The Claim

Ai Group is seeking a variation to nine modern awards such that where an employee's employment is terminated, the employee may be paid moneys owing by EFT in the usual pay cycle. The awards that we seek to vary presently stipulate that payment must be made at the time of termination and/or very shortly thereafter.

The Awards and the Relevant Stage of the Review

Ai Group seeks to vary the following awards:

- | | |
|---|----------|
| 1. Manufacturing Award | Group 1C |
| 2. <i>Graphic Arts, Printing and Publishing Award 2010</i> | Group 2A |
| 3. <i>Storage Services and Wholesale Award 2010</i> | Group 2A |
| 4. <i>Road Transport and Distribution Award 2010</i> | Group 2C |
| 5. <i>Road Transport (Long Distance) Award 2010</i> | Group 2C |
| 6. <i>Business Equipment Award 2010</i> | Group 3A |
| 7. <i>Horticulture Award 2010</i> | Group 3D |
| 8. <i>Wine Industry Award 2010</i> | Group 3D |
| 9. <i>Food, Beverage and Tobacco Manufacturing Award 2010</i> | Group 4E |

Draft Determinations

Draft determinations in respect of each of the above awards are attached to this correspondence.

Yours sincerely,



Stephen Smith

Head of National Workplace Relations Policy



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Manufacturing and Associated Industries and Occupations Award 2010*² be varied by:

1. Deleting clause 34.3 and inserting in lieu:

34.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee by post on the next working day. Provided that, where such wages are paid by EFT, payment may be made in accordance with the usual pay cycle.

- B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000010.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Graphic Arts, Printing and Publishing Award 2010*² be varied by:

1. Deleting clause 28.5 and inserting in lieu:

28.5 Payment on termination

(a) On termination of employment, all monies due to an employee may be paid by EFT in accordance with the usual pay cycle.

(b) Where payment is made by cash or cheque, all such monies must be paid on the day of termination.

(c) Except where clause 28.5(a) applies, all monies are to be forwarded to an employee dismissed without notice by post by the end of the next business day following the termination.

- B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000026.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Storage Services and Wholesale Award 2010*² be varied by:

1. Deleting clause 20.3 and inserting in lieu:

20.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee as soon as reasonably practicable and within two working days after the termination. Provided that where such wages are paid by EFT, payment may be made in accordance with the usual pay cycle.

- B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000084.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Road Transport and Distribution Award 2010*² be varied by:

1. Deleting clause 20.3 and inserting in lieu:

20.3 Notwithstanding anything contained in this clause, the employer must pay to an employee who leaves or is dismissed all moneys due to the employee forthwith. Provided that, where such moneys are paid by EFT, payment may be made in accordance with the usual pay cycle.

B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000038.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Road Transport (Long Distance Operations) Award 2010*² be varied by:

1. Deleting clause 18.3 and inserting in lieu:

18.3 Notwithstanding anything contained in this clause, the employer must pay to an employee who leaves or is dismissed all money due to the employee immediately. Provided that, where such money is paid by EFT, payment may be made in accordance with the usual pay cycle.

B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000039.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Business Equipment Award 2010*² be varied by:

1. Deleting clause 25.4 and inserting in lieu:

25.4 Upon termination of employment, the wages due to an employee must be paid on the day of such termination or forwarded by post on the next working day. Provided that, where such wages are paid by EFT, payment may be made in accordance with the usual pay cycle.

B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000021.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Horticulture Award 2010*² be varied by:

1. Deleting clause 19.3 and inserting in lieu:

19.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee by post on the next working day. Provided that, where such wages are paid by EFT, payment may be made in accordance with the usual pay cycle.

- B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000028.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Wine Industry Award 2010*² be varied by:

1. Deleting clause 26.3 and inserting in lieu:

26.3 On termination of the employment, wages due to an employee must be paid on the day of such termination or be forwarded to the employee on the next working day. Provided that, where such wages are paid by EFT, payment may be made in accordance with the usual pay cycle.

B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000090.



DRAFT DETERMINATION

Fair Work Act 2009

s.156 - 4 yearly review of modern awards

4 yearly review of modern awards – Payment of wages on termination (AM2016/8)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT BOOTH
DEPUTY PRESIDENT CLANCY
COMMISSIONER CRIBB
COMMISSIONER HUNT

SYDNEY, XX XXXX 2016

4 yearly review of modern awards – payment of wages on termination.

A. Further to the decision issued on [insert date]¹ it is ordered that, pursuant to s.156(2)(b)(i) of the *Fair Work Act 2009*, the *Food, Beverage and Tobacco Manufacturing Award 2010*² be varied by:

1. Deleting clause 28.3 and inserting in lieu:

28.3 Payment of wages on termination of employment

On termination of employment, wages due to an employee must be paid on the day of termination or forwarded to the employee on the next working day. Provided that, where such wages are paid by EFT, payment may be made in accordance with the usual pay cycle.

- B. This determination comes into effect on [insert date].

PRESIDENT

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¹ [insert citation].

² MA000073.