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Sent: Monday, 5 December 2022 11:48 AM

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Subject: AM2020/99, AM2021/63, AM2021/65 - Aged Care Work Value

Dear Associates

We refer to the Statement of the Full Bench of 23 November 2022 and in particular the references to liberty apply and to legislative changes in paragraph [9] of the Statement.

We note that the *Fair Work Legislation Amendment (Secure Jobs Better Pay) Act 2022* (the Amending Act) has been passed by the Parliament. It is anticipated that the Royal Assent will be forthcoming shortly and note that the provisions referred to below commence on Royal Assent.

The ANMF by this email exercises the liberty to apply provided in the 23 November Statement.

The matters to be addressed as part of Stage 2 of the proceedings are referred to in paragraph [3] of the Statement.

We note that the Amending Act:

1. Amends paragraph 3(a) of the *Fair Work Act 2009* (the Act) to include reference in the Objects of the Act to job security and gender equity;
2. Amends subsection 134(1) of the Act to include reference in the Modern Award Objective to new paragraphs 134(1)(aa) and 134(1)(ab) referring to improving access to secure work and to the need to achieve gender equity in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and providing workplace conditions that facilitate women's full economic participation;
3. Amends subsection 284(1) of the Act to include reference in the Minimum Wage Objective to new paragraphs 284(1)(aa) referring to the principle of equal remuneration for work of equal or comparable value; and
4. Amends section 157 of the Act to include new subsection 157(2B) to clarify that the FWC's consideration of work value reasons must be free of assumptions based on gender and must include consideration of whether historically the work being assessed has been undervalued because of such assumptions.

It is submitted that each of these amendments impact on the Commission's consideration of the matters the subject of Stage 2 of the proceedings. Indeed the Modern Award and Minimum Wage Objective are referred to in paragraph [3] of the Statement and section 157 is relevant to the proposed interim increase for direct care workers.

The ANMF proposes that the directions for programming referred to in paragraph [6] of the Statement of 23 November 2022 be amended so that:

- (a) Paragraph 1 in relation to the Commonwealth's filing include reference to submissions and evidence in respect of each of the four amendments in the Amending Act referred to above (together with any other provisions in the Amending Act that have commenced and it considers relevant to Stage 2); and
- (b) Paragraph 2 in relation to Applicant Unions, Joint employers and other interested parties filing also be amended to include reference to submissions and evidence in respect of each of the four amendments in the Amending Act referred to above (together with any other provisions in the Amending Act and that have commenced they consider relevant to Stage 2).

In the event the Commonwealth requires some short further time to address these additional matters, without disturbing the rest of the existing programme, ANMF would not be opposed to that course.

This email has been copied to the active parties.

Regards

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Gordon Legal's team will be on leave over the holiday period from **Monday, 26 December 2022** and will return on **Monday, 9 January 2023**. We wish you all the very best for the festive season and look forward to continuing to assist you in the New Year.

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