



STATEMENT

Fair Work Act 2009

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

Aged Care Award 2010

(AM2020/99)

Nurses Award 2020

(AM2021/63)

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

(AM2021/65)

JUSTICE ROSS, PRESIDENT
DEPUTY PRESIDENT ASBURY
COMMISSIONER O'NEILL

MELBOURNE, 6 APRIL 2022

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

[1] On 6 April 2022, solicitors for the Health Services Union wrote to the Commission, with the consent of the Australian Nursing and Midwifery Federation, the United Workers' Union, Australian Business Industrial, Leading Age Services Australia and Aged & Community Services Australia, in respect of the programming and hearing of this matter.

[2] The relevant parts of the correspondence are as follows:

'In order to prepare and agree the hearing plan as requested by the Commission in the 11 March Statement the parties would be assisted by further information as to how the Commission proposes to program and hear this matter.

To that end, we respectfully raise the following issues in respect of which an indication of the Commission's inclinations would assist the parties in their planning.

Noting that the Commission proposes in the 4 April Statement to proceed to hear this matter via Microsoft Teams :

1. Could hearing rooms be made available in registries of the Commission with audio-visual links established between all such hearing rooms, so as to enable witnesses and representatives to elect to attend from either their home/office location via Microsoft Teams or to physically attend such registries as are convenient (i.e., at least in Sydney and

Melbourne, possibly also in other registries subject to the Commission's convenience and resources)?

2. Is the Commission prepared to accommodate site inspections in the first week of the schedule of hearings, if such inspections can be arranged safely? The parties consider that the Commission would be assisted by such inspections. If the Commission is prepared to accommodate inspections, the parties will consult and endeavour to propose an agreed list of inspection venues in advance of the next mention in order that appropriate arrangements can be made.

The parties are engaged in the development of a hearing plan and would be greatly assisted by the Commission's indications in relation to these matters at the Commission's earliest convenience.'

[3] In response to the requests put, we advise as follows:

1. The hearing room facilities requested will be made available in Melbourne and Sydney. There will be the capacity to elect to attend in person.
2. The Full Bench is prepared to accommodate site inspections in the first week of the schedule of hearings provided such inspections can be arranged safely and in compliance with relevant public health orders. It may be the case that not all Members of the Full Bench will attend each inspection.

[4] As noted in the 11 March 2022 Statement,¹ a mention has been listed for **12 noon (AEST) on Friday 22 April 2022**. Parties are reminded that, prior to the mention, they must inform each other of the witnesses required for cross-examination, and prepare a joint hearing plan addressing the order of witnesses and each parties' approximate estimates of time for cross-examination. Noting the HSU's request, the hearing plan should also specify the location of each of the witnesses to assist the Commission with providing appropriate access to hearing rooms. The hearing plan and any objections to the evidence in the witness statements should be sent to Chambers.Ross.j@fwc.gov.au by **4pm (AEST) on Thursday 21 April 2022**. The process for dealing with any evidentiary objections filed will be dealt with at the mention.

[5] We also noted in the 11 March statement that the Commission will prepare a Digital Hearing Book (DHB) to assist interested parties at the hearings commencing on Tuesday 26 April 2022. A draft index for the DHB will be published with this statement. Any comments in relation to the draft index should be filed by **4pm on Wednesday 13 April 2022**. The index will be updated to include evidence and submissions filed by 21 April 2022 in accordance with the [current directions](#).

PRESIDENT

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<PR740085>

¹ [2022] FWCFB 29

Digital Hearing Book



AM2020/99, AM2021/63, AM2021/65 – Work Value Case – Aged Care Industry

Full Bench

Hearing Date: Tuesday, 26 April 2022

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4	Statement – [2021] FWCFB 3726	Joinder of Applications – directions issued	01/07/2021	
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