



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**JUSTICE HATCHER, PRESIDENT**

**AM2024/11**

**s.158 - Application to vary or revoke a modern award**

**Application by Australian Nursing and Midwifery Federation (145V)  
(AM2024/11)**

*Nurses Award 2020*

**Sydney**

**10.11 AM, THURSDAY, 29 FEBRUARY 2024**

PN1

JUSTICE HATCHER: I will take the appearances. Mr McKenna, you appear for the applicant, the ANMF?

PN2

MR J McKENNA: I do, your Honour, if it please the Commission, together with Ms Jones, initial V.

PN3

JUSTICE HATCHER: Thank you. Mr Bailey, you appear for the Australian Salaried Medical Officers Federation?

PN4

MR I BAILEY: I do, your Honour, thank you.

PN5

JUSTICE HATCHER: Ms Sultan, you appear for the United Workers Union?

PN6

MS A SULTAN: Yes, thank you, your Honour.

PN7

JUSTICE HATCHER: Mr Ward, you appear for Australian Business Industrial?

PN8

MR N WARD: I do, your Honour.

PN9

JUSTICE HATCHER: Can you turn your camera back on, Mr Ward, if you can.

PN10

MR WARD: My camera is on, your Honour, from my perspective. I'll turn it off and turn it on again.

PN11

JUSTICE HATCHER: All right. Mr Nelson, you appear for Healthscope Operations Ltd?

PN12

MR M NELSON: Yes, sir.

PN13

JUSTICE HATCHER: And Mr Broanda and Mr Cutler, you appear for Mater Misericordiae Limited?

PN14

MR D BROANDA: Correct.

PN15

MR D CUTLER: Correct, your Honour.

PN16

JUSTICE HATCHER: All right. Mr McKenna, how do you wish to deal with this application?

PN17

MR McKENNA: Thank you, your Honour. It is anticipated that the Commission would make some directions for the filing and service of material from the applicant and other interested parties. To that end, your Honour, if I can address the issue of timetabling, unless there are other matters that your Honour wished to hear about first?

PN18

JUSTICE HATCHER: What I was going to raise with you, Mr McKenna, was, firstly, whether there should, as a first step, be a conference of the parties just to try and ascertain attitudes towards this application and whether it can be advanced on, at least in part if not in whole, a consent basis, and, secondly, whether that first step should await the issuing of a decision in the Aged Care matter, which, as you know, will likely say something about nurses' wages in aged care. I can indicate that that decision is likely to be issued on or about 15 March.

PN19

MR McKENNA: Thank you, your Honour, for the indication, and, yes, in answer to your questions, I can confirm that the instructions are that both of those ideas would be embraced, that is, a conference of the parties and for a conference of the parties to occur after the publication of those reasons, your Honour.

PN20

JUSTICE HATCHER: Yes, all right. Thank you. Mr Bailey, what's your organisation's attitude to the application?

PN21

MR BAILEY: Look, I don't have specific instructions, but I think that would be a suitable approach, your Honour.

PN22

JUSTICE HATCHER: Just for my knowledge, what's your organisation's interest in the application?

PN23

MR BAILEY: Our interest is that, although the Medical Practitioners Award is not co-extensive as far as coverage is concerned, I think it's a subset and, obviously, there is a general interest amongst the branches in this particular matter. I don't know, at this stage, whether or not there's any intention, or desire, to be actively making submissions or seeking to be involved to that extent, but there is a general interest, obviously, with the coverage of the Nurses Award and the matters that I see are being agitated in the application.

PN24

JUSTICE HATCHER: All right. Thank you. Ms Sultan.

PN25

MS SULTAN: The United Workers Union has an interest in this award as it has members that are nurses, primarily enrolled nurses and assistants in nursing, in a number of states and territories.

PN26

We support, in principle, the application filed on the basis that the wages in the Nurses Award were never properly fixed and, you know, it involves historical undervaluation of the profession, being female-dominated, and the wage rates haven't been properly adjusted following the changes to work, but, as your Honour rightly pointed out, we are mindful of the interplay between this matter and the Aged Care Work Value case, including the overlap of the AIN classification and the personal care workers' classification, so we would support the conference occurring after that decision issues, but, at this stage, we are not intending to file submissions in this matter and we would seek to be excused from attendances, but would ask to be copied into parties' correspondence.

PN27

We also would like the ability to file submissions, should our position change on the material filed or the decision in the Aged Care Award.

PN28

JUSTICE HATCHER: Ms Sultan, there's a web page in this matter, so you simply need to look at the web page to find out what's going on. Mr Ward.

PN29

MR WARD: Your Honour, having had the benefit of being in the Aged Care case for the last three years and understanding the issues in debate around nurses, I think your proposal is clearly the most practical and the most efficient. We should wait for the Aged Care decision to be handed down, have a chance to digest it, and then I think a conference is entirely the best way to go forward.

PN30

JUSTICE HATCHER: Thank you. Mr Nelson.

PN31

MR NELSON: Thank you, your Honour. Our interest is as the second-largest employer of nurses in the private sector, so we have a keen interest in the application and its potential impact in terms of award classifications.

PN32

JUSTICE HATCHER: All right. And what's your attitude towards the application?

PN33

MR NELSON: Our attitude is that we are enquiring at this stage as to the approach and would support the suggestions from your Honour.

PN34

JUSTICE HATCHER: All right. Thank you. Mr Broanda and Mr Cutler.

PN35

MR BROANDA: Thank you, your Honour. Your Honour, the proposed way forward seems entirely practical. I pick up on a comment that Mr Ward made that we would also support, your Honour, in as much as waiting for the release of the decision before we reconvene. It's giving us time, if your Honour could, to digest and understand the decision and then also take instructions.

PN36

We are, your Honour, also talking with industry associations that cover particularly Catholic Health Australia and the Australian Private Hospitals Association, and we are looking to form some views on the back of that.

PN37

Your Honour, our position, I envisage, will be heavily influenced by the outcome of the Aged Care decision, so we support that way forward, but, your Honour, we just ask if you could afford us a reasonable time between the publishing of the decision and the further reconvening of this matter to give us time to understand it and seek instructions.

PN38

JUSTICE HATCHER: How long might that period be?

PN39

MR BROANDA: Your Honour, I respectfully suggest at least two to three weeks.

PN40

JUSTICE HATCHER: Yes, all right. Does any other party disagree with the notion that the conference should be two to three weeks after the Aged Care decision. No? All right. Well, that's the course I intend to take, so there will be a notice of listing issued later today which will identify the date and location of the conference.

PN41

Mr McKenna, unless there's nothing further on your behalf, we will now adjourn. In terms of further directions, we can assess the position after the conference has occurred.

PN42

MR McKENNA: If your Honour pleases.

PN43

JUSTICE HATCHER: Thank you for your attendance. We will now adjourn.

**ADJOURNED INDEFINITELY**

**[10.19 AM]**