



TRANSCRIPT OF PROCEEDINGS
Fair Work Act 2009

JUSTICE HATCHER, PRESIDENT

AM2024/31

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

**Application by Australian Business Industrial and NSW Business Chamber Limited
(AM2024/31)**

Banking, Finance and Insurance Award 2020

Sydney

10.14 AM, MONDAY, 12 AUGUST 2024

PN1

JUSTICE HATCHER: I'll take appearances.

PN2

Ms Izzo, you appear for the applicants, Australian Business Industrial and New South Wales Business Chamber.

PN3

MR L IZZO: I do, your Honour.

PN4

JUSTICE HATCHER: Ms Beasley, you appear for the Australian Industry Group.

PN5

MS C BEASLEY: I do, your Honour.

PN6

JUSTICE HATCHER: And, Mr Saunders, you appear for the Finance Sector Union.

PN7

MR L SAUNDERS: Yes, your Honour.

PN8

JUSTICE HATCHER: All right. Mr Izzo, what do you want to do with this application?

PN9

MR IZZO: Your Honour, there's probably two things that we would like to ask. The first is our views that this application should be listed together with proceedings AM2024/31 and AM2024/32 which are the two applications for an exemption rate in the Clerks - Private Sector Award. The reason for that is twofold. Firstly, the nature of the application that's been made is very - in very much similar form and content to the application is - that have been made with respect to the Clerks Award and secondly, we'll be seeking to rely on similar materials.

PN10

In fact, both the AI Group and BNSW/ABI are jointly commissioning some research that - from the University of Wollongong that will go to both the Clerks - Private Sector Award and the Banking, Finance Insurance Award. There'll be some survey evidence of employers in both industries and so for that reason, we would seek that all three proceedings be listed for determination together. So that's our first request. The second request is that we're likely to be in a position to file materials by the end of the year.

PN11

That's when we're filing the Clerks Award, so we would seek a similar direction. I think off the top of my head, and I can check, I think the date for filing the Clerks Award is 20 December. So we'd seek - and I'll confirm that in a

moment, but we'd seek that our materials, that being evidence and submissions, be filed by 20 December and then the matter could be listed to report back early next year and I'll get you the dates when I finish speaking, for when the Clerks Award's being listed, if that's the course (indistinct).

PN12

They're effectively the directions we would seek, your Honour.

PN13

JUSTICE HATCHER: Mr Izzo, I think - well, two matters with respect to the joinder application. Firstly, I think it would require the parties to the Clerks Award matters to be heard in respect of that, and secondly, it may not be the case that the commonality of the proceedings can be assessed until you've, at least, filed your material given that although the application is the same, it's a very different award and a different industry.

PN14

But one way to address that might be that you file your material that's proposed. The Clerks matters had a report back date in January, I can't remember the precise date, but we can have a common report back dating if you could make your joinder application at that time. 17 January I'm told.

PN15

MR IZZO: Yes, we'd be content with that approach, your Honour.

PN16

JUSTICE HATCHER: All right. Ms Beasley, do you wish to add anything?

PN17

MS BEASLEY: Thank you, your Honour. Look, we have no difficulties with the proposed joinder with the Clerks Award matter and the approach that you've just outlined. I might just foreshadow that we anticipate being supportive of the proposition to insert an exemption rate into this award, but it's likely we might raise some concerns about the specific model that's been proposed by the applicant and potentially may propose an alternate provision.

PN18

So we're in your Honour's hands as to whether we would file our material at the same time, or at a later point, but I just wanted to flag that at this point.

PN19

JUSTICE HATCHER: Well, if it's at a later point, that will obviously elongate the proceedings. That is, if you're going to wait until you see Mr Izzo's material, then make a decision, then we'll end up in the middle of the next year before you know it, but that's a matter between you and Mr Izzo to work out, I think.

PN20

Mr Saunders, I note the draft directions you've sent through, if I added it to what I proposed, if I added a direction to confer, would that deal with the FSUs issues at this stage?

PN21

MR SAUNDERS: Yes, your Honour. We simply don't have a position in respect of joinder, although the application is not a tremendous surprise.

PN22

JUSTICE HATCHER: All right. So if I sum that up, the applicant would be directed to file its submissions and evidence by 20 December, the parties are directed to confer. If the parties jointly approach the Commission for any assistance, that can be arranged and the matter will be listed for report back together with the new Clerks Award matters on 17 January.

PN23

All right. Is there anything further I can deal with? All right. Well, thank you for your attendance. I'll now adjourn.

ADJOURNED UNTIL FRIDAY, 17 JANUARY 2025

[10.19 AM]