FWC Bulletin

7 September 2023 Volume 9/23 with selected Decision Summaries for the month ending Thursday, 31 August 2023.

Contents

Updated Fair Work Commission Rules 2013 now published

An updated compilation of the *Fair Work Commission Rules 2013* commencing on 3 August 2023 has been published on the Federal Register of Legislation. See Fair Work Commission Rules 2013 [F2023C00727] to view the compilation.

This follows the registration of the *Fair Work Commission Amendment (2023 Measures No.1) Rules 2023*. The instrument updated the rules to reflect the changes made by the:

- *Secure Jobs, Better Pay Act* (SJBP Act)
- *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*.

The updates introduce new procedural requirements and provide references to new forms to reflect the changes that commenced operation on 7 December 2022 and 6 March 2023. The updates relate primarily to the sexual harassment and bullying jurisdiction, equal remuneration provisions and enterprise agreements.

President’s statement on implementing government reforms and our performance

02 Aug 2023

Fair Work Commission President, Justice Hatcher has issued a statement. The statement provides an update on our implementation of significant reforms while also meeting or exceeding a range of performance targets for established jurisdictions and functions.

Implementing Secure Jobs, Better Pay changes

The Secure Jobs, Better Pay Act amended existing and introduced new jurisdictions. This expanded our functions significantly in several areas including:

- bargaining
- enterprise agreements
- workplace sexual harassment
- disputes about flexible work arrangements and extensions of unpaid parental
- our role in relation to registered organisations.

Justice Hatcher highlights the extensive work undertaken to support business, employees and the community with the changes through proactive and targeted communication and education. From the outset of the implementation process in December 2022, we committed to placing our users’ needs at the heart of the design of our services. We will continue meet this commitment.

Performance summary 2022-23

In the statement, Justice Hatcher notes our implementation of significant reforms while also meeting or exceeding a range of performance targets for established jurisdictions and functions.

In 2022-23 we:

- met or exceeded our Portfolio Budget Statement (PBS) Key Performance Indicators (KPIs)
- delivered timely finalisation of cases overall and timely reserved decisions
- assisted the informal settlement without arbitration of around 90% of 12,500 disputes under an award or agreement and unfair dismissal cases, helping to save time and cost to parties in the resolution of their cases
- met or exceeded the expectations of 82.2% of surveyed users.

At 30 June 2023, we had received 31,520 lodgments and finalised 32,180 matters in 2022–23. This represents a clearance rate of 102%. We are not carrying any backlogs in any case type into the 2023–24 reporting period.

Find out more

Read the President’s statement on implementing government reforms and our performance (pdf)

Subscribe to Announcements and follow us on LinkedIn to stay up to date. Read more about the Secure Jobs Better Pay Act – what's changing.

Decisions of the Fair Work Commission

The summaries of decisions contained in this Bulletin are not a substitute for the published reasons for the Commission's decisions nor are they to be used in any later consideration of the Commission's reasons.

Summaries of selected decisions signed and filed during the month ending Thursday, 31 August 2023.

1 ENTERPRISE BARGAINING – protected action ballot – ballot period – ss.437, 604 Fair Work Act 2009 – appeal – Full Bench – the Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia (CEPU) applied for a protected action ballot order (PABO) – the group of employees to be balloted were employed by Nilsen (NSW) Pty. Ltd. (Respondent) who were members of the CEPU and would be covered by a proposed enterprise agreement – the application sought that the ballot be conducted by a ballot agent, Democratic Outcomes P/L T/A CiVS (CiVS) – CiVS has been approved as an eligible protected action ballot agent under s.468A of the FW Act – at first instance the Commission's Decision recorded that a ballot period of 10 working days from the date of the Order had been approved, rather than the period of 6 working days sought by the CEPU, and the Order issued specified this period – the Commission also extended the time sought in the application for the filing of lists of members/employees by the CEPU and the Respondent to 4.00 pm on the third working day after the day the Order was issued, rather than the next working day, as proposed by the CEPU in its draft order – the effect of the Order was that the closing date for the ballot was 4 August 2023 rather than 31 July as sought by the CEPU, and the lists of employees to be covered by the proposed agreement and union members were to be provided by 26 July 2023 instead of 24 July as sought by the CEPU – the CEPU filed a Notice of appeal and requested that the appeal be heard on an expedited basis on the ground that the relief sought included orders varying the first instance Decision and Order to provide that the protected action ballot close 6 working days after the Order – the 3 grounds for the appeal were that the CEPU were denied procedural fairness by the extended voting date pursuant to s.443(3)(c) and the extended date for providing a list of relevant employees pursuant to ss.450(2) and (4), and that the Commission erred in his construction of s.443(3)(c) in his exercise of the power to specify the date for voting in the protected action ballot – permission to appeal granted on the basis that the appeal raises a novel question of general importance regarding new provisions of the FW Act concerning the exercise of power by Members of the Commission to make a protected action ballot order that specifies the date by which voting is to occur – Appeal grounds 1 and 2 – misconstruction of ss.443(3)(c) and (3A) and s.448A – *NTEU v Curtin* considered – Commission's power to make a PABO under s.443 is not discretionary in nature and s.443(1) imposes a duty on the Commission to make an order if the two conditions have been met: first that an application for such an order has been made under s.437 and, second, that the Commission is satisfied that each applicant for an order has been, and is, genuinely trying to reach an agreement with the employer of the employees to be balloted – while s.443(3)(c) requires the Commission to specify the date by which voting in the protected action ballot closes, s.443(3A) invests the Commission with a discretion to specify the

date by which a protected action ballot will close, provided the date will enable the protected action ballot to be conducted as expeditiously as practicable – the central premise of the CEPU's construction argument was that s.443(3A) outlines the universe of considerations and purposes the Commission is to take into account in specifying the date by which voting is to close under s.443(3)(c) – the CEPU submitted the Commission must specify a date for the close of the ballot that will enable the ballot to be conducted as 'expeditiously as possible' – Full Bench held there was no warrant to depart from the settled principle that the text of s.443(3A) must be considered in the context of the FW Act viewed as a whole – clear from a plain reading of s.443(3A) that it does not require the FWC to specify a date that will enable the ballot to be conducted as 'expeditiously as possible' – instead, the Commission is required, for the purposes of s.443(3)(c), to specify a date that will 'enable the protected action ballot to be conducted as expeditiously as practicable' – the newly enacted s.448A requires that if the FWC has made a PABO in relation to a proposed enterprise agreement, the FWC must make an order directing the bargaining representatives for the agreement to attend a conference at a specified time or times during a specified period, and at a specified place or by specified means – the conference is for the purposes of mediation or conciliation in relation to the agreement – the specified period for the conference to be conducted must end on or before the date specified in the PABO under paragraph 443(3)(c) as the day by which voting in the protected action ballot closes – Full Bench did not consider the Commission is limited to consideration of the matters in s.443(3A) when specifying a date for a protected action ballot to close – Full Bench agreed that matters of the kind identified by the CEPU were relevant to the exercise of discretion by the Commission to specify a date for a protected action ballot to close that will enable the ballot to be conducted as expeditiously as practicable – however, found no warrant to limit consideration to matters of that kind – other matters relevant to the exercise of the discretion may include the location of the group of employees, their rosters or work patterns, the nature of the work they are performing, their access to the internet or telephone services and the method by which the ballot will be conducted – Full Bench also of the view that in exercising the discretion in s.443(3A), the Commission may have regard to the requirements in relation to conducting conferences pursuant to s.448A – the fact that non-compliance with an order to attend a s.448A conference by one or more employee bargaining representatives, for example, one who may not have been the applicant for the PABO, could result in any subsequent employee claim action being unprotected for both those bargaining representatives and all other participants, is a significant matter – the Commission, in discharging its obligation under s.443(3A), is empowered to have regard to the statutory context extending beyond the narrow confines contended for by the CEPU – provided the closing date will enable the ballot to be conducted as expeditiously as practicable, the Commission is empowered, having had regard to this broader statutory context, to specify a date for the voting in a protected action ballot to close that results in there being a longer period than that sought by an applicant for a PABO – Full Bench found nothing in the contextual or extrinsic material that persuaded it the construction of s.443(3A) advanced by the CEPU was correct – Appeal grounds 1 and 2 rejected – Appeal ground 3 – denial of procedural fairness – CEPU asserted it was denied procedural fairness because it was not (and could not have been) apparent, that the Commission was contemplating specifying a date by which the ballot was to close

different to the date specified in the Union's application – when the Commission is dealing with an application for a PABO, there are several moving parts that must be balanced – the Commission has a statutory obligation to, as far as practicable, determine the application within 2 working days after the application is made and in that time frame, the Commission must ensure that the employer and any other bargaining representatives are informed of the application and given an opportunity to respond – if the Commission has made a PABO it is required to conduct a conference before the closing date of the ballot, and to order bargaining representatives to attend (s.448A) – the Commission may elect to deal with procedural issues arising from an application for a PABO by email or telephone communications – the Commission sent two letters to the Respondent by email stating that the closing date for the protected action ballot was likely to be no longer than 10 to 15 working days from the date of the order, as determined by the Commission – that correspondence was copied to the CEPU's nominated officer who had carriage of their PABO application – Full Bench found that the CEPU knew that there was every prospect a later closing date than that sought in the application for a protected action ballot order, would be specified – Full Bench considered but did not accept the CEPU submission that it was denied an opportunity to put evidence before the Commission of the kind included in the appeal book which would have made a material difference to the determination of the closing date for the ballot – it would still have been open to the Commission in the exercise of the discretion in s.443(3A) to specify a later date for the ballot to close than the date sought by the CEPU – Full Bench not satisfied that there was a denial of procedural fairness by the Commission, much less one that was material in the decision with respect to the provision of lists of the relevant employees and the closing date for the protected action ballot – appeal dismissed.

Appeal by Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia against decision and order of Hampton DP of 21 July 2023 [[2023] FWC 1769] and [PR764414] Re: Nilsen (NSW) P/L

C2023/4319
Asbury VP
Clancy DP
Platt C

Brisbane

[2023] FWCFB 134
4 August 2023

2 TERMINATION OF EMPLOYMENT – misconduct – ss.387, 394 Fair Work Act 2009 – applicant employed as a general manager of respondent – applicant also purportedly served as managing director – respondent engaged in manufacture and distribution of baked products – another company engaged in manufacturing and distributing baked products called Trend was majority shareholder of respondent – applicant dismissed for misconduct primarily due to his involvement with and recording of a $1.8M transaction from Trend – dispute about level of involvement of applicant in managing financial reporting of the respondent – Commission accepted applicant's role included some oversight of the respondent's financial reporting in collaboration with respondent's accountants and other directors – allegation that applicant breached his employment obligations in relation to $1.8M transaction by making false, misleading or incorrect entries or that he was reckless or dishonest about causing, making or permitting inaccurate or false or misleading accounting records to

be made – the $1.8M transaction was initiated by another director of the respondent, Mr Huynh who was also a director of Trend – payment was made by Trend to the respondent with directions given by Mr Huynh for redistribution of the funds – redistribution of funds purportedly included for payment of invoices payable to Trend, repayment of loan to Mr Huynh and for distribution to other companies of which Mr Huynh and other directors had an interest – managing director of respondent also recipient of a purported loan from the funds – respondent asserted transaction could be described as capital contribution or as a loan – transaction was not made in exchange for shares and the funds were not available to the respondent due to Mr Huynh's distribution instructions – no evidence of loan agreement – managing director maintained he simply followed directions of Mr Huynh with respect to distribution of funds and that he did not ask further questions about it as it involved accounting processes of which he did not have involvement – Commission held that the $1.8M transaction was 'dodgy' – and that the applicant ought to have questioned the accounting treatment proposed – however the managing director acquiesced to the transaction and was wilfully blind to its accounting and facilitated the disbursement of some of the funds – receipt of funds to the respondent treated as 'flow through' cash and financial statements did not reveal receipt of the payment – Commission held receipt of money should have been properly recorded and reported – Commission held applicant would have known there was no good, proper business reason for the whole of the $1.8M to go through the respondent's account – Commission held in normal course of events applicant's involvement in recording of transaction would have provided a valid reason for dismissal – consideration given to whether respondent condoned applicant's behaviour and therefore waived entitlement to summarily dismiss (*Rankin)* – Commission held that the controlling minds of the respondent were each complicit in the receipt, disbursement and recording of the $1.8M transaction but nonetheless retained the applicant in employment and abandoned the right to summarily dismiss – Commission rejected respondent's contention that a valid reason may exist if a subsequent director, appointed after the waiver of right to dismiss, did not condone prior misconduct – Commission also rejected contention subsequent director did not have knowledge of transaction – separate allegation that Applicant had given unrestricted access to the respondent's systems rejected – Commission held there was no valid reason for the dismissal – condonation and waiver in relation to $1.8M transaction as all of the respondent's directors were aware of it and the majority of directors (excluding the applicant) benefited from it – applicant not given an opportunity to respond to reasons for dismissal – other matters considered – Commission observed applicant likely a casualty of struggle for control of the respondent and past conduct of Mr Huynh – lack of valid reason for dismissal and denial of procedural fairness sufficient to conclude the dismissal was unfair – Commission did not condone applicant's conduct but held it was unreasonable to dismiss for conduct which was earlier condoned – remedy to be determined by future proceedings.

Tra v Prodigy Holdings P/L

U2022/11032 [2023] FWC 1514
Gostencnik DP Melbourne 15 August 2023

3 TERMINATION OF EMPLOYMENT – casual – no dismissal found – ss.365, 386 Fair Work Act 2009 – Commission opened decision with warning Australian employers need to be aware that removal of a casual employee from their payroll system may trigger notification of dismissal to the ATO and Centrelink – observed this creates risk of unintended consequence of dismissing an employee – applicant commenced as a casual for respondent's beauty salon – 16 May applicant's last shift worked – 18 May respondent advised applicant that she did not need to work next shift because business was quiet – respondent removed applicant from payroll system because it decided not to roster applicant during a quiet business period – removal from system reduced payroll administration costs – respondent did not advise applicant of removal from the payroll system – removal appeared to cause third party payroll provider to notify Australian Taxation Office (ATO) of applicant's removal – ATO then seemingly notified Centrelink of removal from payroll system – applicant was recipient of Centrelink benefits – 25 May the applicant reported income to Centrelink – Centrelink notified that her employment with respondent had ceased – applicant did not contact respondent to confirm if Centrelink's notification was correct – 8 June the respondent contacted applicant to arrange a meeting – 13 June applicant declined to attend meeting – applicant lodged application with Commission that day – respondent became aware of the Centrelink 'dismissal' notification to the applicant upon receiving notification of her unfair dismissal application – whether applicant dismissed considered – Deputy President cited s.386 meaning of dismissal where a person is dismissed if his or her employment has been terminated on the employer's initiative or person was forced to resign from his or her employment because of their employer's conduct – Deputy President held applicant had not been dismissed – applicant's removal from the payroll system was not intended to remove the applicant as an employee – plausible for the respondent to do so for business considerations – respondent's email on 8 June to applicant indicated that respondent considered applicant to still be employed after 25 May when applicant was notified by Centrelink of dismissal – nature of casual employment means that there are periods of time when a casual employee is not rostered on for employment – held that this does not mean an employer has dismissed their casual employee – applicant not dismissed – no jurisdiction to determine application – observed respondent should exercise higher degree of care when temporarily removing casual employees from payroll system – observed further that shifts should be offered to applicant even if disputes about superannuation or wages are outstanding – application dismissed.

Trewin v Choudhuri & Shee T/A Ella Bache Sale

C2023/3413 [2023] FWC 1928
Anderson DP Adelaide 8 August 2023

4 TERMINATION OF EMPLOYMENT – misconduct – self-defence – ss.387, 394 Fair Work Act 2009 – applicant was intercity train driver – respondent terminated applicant for serious misconduct – alleged misconduct was engaging in violence with a member of the public (the offender) on his way to work – applicant claimed he sought to defend himself from assault by the offender – applicant contacted police the day after the assault and police advised he was considered a victim of an assault – applicant

contracted COVID19 and considered this occurred due to the assault – respondent advised a meeting would be arranged about the incident – respondent issued allegation letter that applicant inappropriately engaged in physical altercation with member of public – applicant responded that he was the victim of the assault and had sought to avoid the conflict – show cause letter issued in which respondent stated investigation substantiated allegations – applicant challenged the findings and claimed he had followed respondent's mandatory safety procedures – respondent advised applicant that they had formed a view that they would dismiss him – applicant sought internal review of the initial finding – internal review did not overturn decision – dismissal effective from 2 March 2023 – applicant cited self-defence as reason he was not dismissed for a valid reason and that dismissal was harsh, unjust and unreasonable – Deputy President considered it appropriate to measure whether respondent had valid reason to dismiss by reference to law of self-defence – Deputy President cited *Palmer v R* principle of self-defence that a man who is attacked may defend himself and but may only do what is reasonably necessary to defend himself – Deputy President declined to follow approach to self-defence considered in *Whittaker* – Deputy President found applicant was entitled to defend himself from the offender as a matter of law – respondent did not provide evidence on balance of probabilities that the applicant's actions were not taken in self-defence – found applicant believed it was necessary in the circumstances to use reasonable force against the offender – found per s.387 there was no valid reason for dismissal of applicant – found that the applicant had been long serving employee and had unblemished employment record – applicant's suspension had resulted in a significant loss of income and had significant financial consequences for applicant and his family – limited ability to retrain and find other suitable employment – held dismissal was harsh, unjust and unreasonable – held that reinstatement was an appropriate remedy – applicant reinstated with back pay less any income earned from other work prior to reinstatement.

Al-Buseri v NSW Trains T/A NSW TrainsLink

U2023/2213 [2023] FWC 1517
Boyce DP Sydney 24 July 2023

Other Fair Work Commission decisions of note

General Retail Industry Award 2020

MODERN AWARDS – variation – ss.134, 158 Fair Work Act 2009 – Full Bench – Woolworths Group Limited (Woolworths) applied under s.158(1) to vary *General Retail Industry Award 2020* (Award) to make clear that it covers an "online fulfilment facility" – three proposed variations sought: (1) adding "Online supermarket sales fulfilment facility" definition; (2) varying coverage clause 4.1(b) to include words "including employees employed in an online supermarket sales fulfilment facility."; and (3) substituting phrase "'at a retail establishment" with "in the general retail industry" – Woolworths submitted considerations in paragraphs (f) and (g) of s.134(1) favour granting application because variations sought 'will provide clarity' to application of Award, and other considerations in s.134(1) are irrelevant and have neutral weight – Full Bench not satisfied that s.134(1) considerations favoured granting application, nor that proposed variations were necessary to achieve fair and relevant minimum safety net of terms and conditions – Full Bench dismissed application and provided four reasons – first, Full Bench held Award, and no other

award, covers Woolworths and its employees at its customer fulfilment centres (CFCs) and eStores and that there was no need to 'clarify' coverage provisions in Award – second, application sought variation concerning 'online supermarket sales fulfilment facilities' generally, however no evidence provided concerning any other online supermarket sales fulfilment facility, aside from Woolworths', which may exist – third, manner supermarkets operate CFCs is in a state of flux with rise of automation and 'uberisation' of online supermarket shopping, which raises potentially complex considerations concerning award coverage that were not addressed in submissions – fourth, variations sought would have wider implications which are simply not addressed by anything in its case.

AM2022/35 [2023] FWCFB 139
Hatcher J Sydney 11 August 2023
Clancy DP
Matheson C

Re Jolly

REGISTERED ORGANISATIONS – amalgamation – withdrawal – s.94 Fair Work (Registered Organisations) Act 2009 (RO Act) – Full Bench – application for ballot to decide whether the Locomotive Division of the Victoria Branch (VLD) should withdraw from the Australian Rail, Tram and Bus Industry Union (RTBIU) – amended application later lodged by applicant – application made five years after the amalgamation which formed the RTBIU – applicant asked Commission to accept the application pursuant to s.94A(1) of RO Act after the end of the five-year period occurring from the amalgamation – applicant contended Commission should have regard to RTBIU's alleged record of not complying with workplace health and safety laws to which the VLD had not contributed to – applicant further contended Commission should have regard to the likely capacity of proposed new organisation to promote and protect the economic and social interests of its members – applicant also submitted that the Commission has a residual discretion to consider matters other than those in s.94A(2) RO Act in relation to what is appropriate under s.94A(1) including the alleged oppressive, dysfunctional and unlawful behaviour of the Victorian Branch of the RTBIU – applicant also submitted that the non-compliance of the RTBIU's rules by the organisation's Victorian Branch detrimentally affected the VLD's financial affairs – applicant further contended VLD's finances will be enhanced once freed from alleged interferences by the Victorian Branch of the RTBIU – RTBIU applied to the Commission to dismiss, strike out or determine not to decide the matters raised in the amended application – RTBIU submitted that there has not been any finding of non-compliance within the meaning of s.94A(2)(a) RO Act made against the organisation and that the matters mentioned in the amended application do not in any event constitute a 'record' within the meaning of s.94A(2)(a) RO Act – RTBIU contended amended application was not relevant to consideration required by s.94A(2)(b) RO Act, incorporated passages which were not relevant and should not be admitted into evidence, and were in a form that was vague, embarrassing and did not give the RTBIU fair notice of the applicant's case – RTBIU contended proposed new organisation would not likely have the requisite capacity due to concerns about the VLD's finances – applicant later advised he no longer relied on his contention the Commission has a residual discretion to consider matters other than those in s.94A(2) RO Act – Full Bench noted that s.94A(2)(b) RO Act is forward looking and requires consideration whether new organisation will probably be able to promote and protect the economic and social interests of its members as and when the withdrawal from amalgamation takes effect – Full Bench observed this assessment is limited to making an evaluative judgment whether the organisation will likely be able to promote and protect the economic and social interests of its members – preferred construction of s.94A(2)(b) does not require the Commission to assess the relative capacity of the constituent part to relevantly promote and protect its members moving forward as compared to when it was part of the amalgamated organisation [*Explanatory Memorandum*] – Full Bench noted applicant's contention must be relevant to establishing the likely capacity of the VLD as a registered organisation to promote and

protect the economic and social interests of its members – Full Bench held amended application said little about likely capacity of the VLD as a registered organisation – Full Bench also noted the amended application did not identify the conduct which has had any detrimental effect upon the VLD's capacity to promote and protect the economic and social interests of its members – Full Bench further struck out applicant's argument that Victorian Branch of the RTBIU had engaged in oppressive, unreasonable and unlawful behaviour as it was not relevant to the consideration under s.94A(2)(b) RO Act – amended application struck out by Commission.

D2023/1 [2023] FWCFB 117
Hatcher J Sydney 21 July 2023
Gostencnik DP
Bissett AC

Appeal by Clarke against decision of Commissioner Schneider of 28 April 2023 [[2023] FWC 1011] Re: Uniti Group P/L

GENERAL PROTECTIONS – extension of time – date dismissal took effect – ss.365, 604 Fair Work Act 2009 – appeal – Full Bench – at first instance, Commission concluded application lodged outside prescribed time with no exceptional circumstances to extend time to apply – applicant sought permission to appeal the Commission's decision – Full Bench considered appellant's termination letter stating that 'employment will end 16 November 2022' including 'one week's notice', that appellant would not be required to work the notice period and his last day of work would be 10 November 2022 and that appellant would receive 'payment in lieu of the notice period' – Full Bench highlighted ambiguity regarding dates in termination letter – concluded that employment came to an end on 16 November 2022 [*Leech*] – considered Commission erred in concluding application had been lodged outside of time prescribed – permission to appeal granted – appeal upheld – Decision and Order of Commission quashed – application to be remitted for conciliation – Full Bench noted that if it were wrong about termination date it would grant permission to appeal on the basis that Commission erred, one, in failing to take into account relevant considerations of appellant's health, ambiguity of termination letter and lack of representation for appellant and, two, in concluding that appellant took no action to dispute to dismissal – upheld appeal on alternative grounds and Decision and Order still quashed – Full Bench found that errors made meant that Commission's discretion miscarried – matter reheard – Full Bench admitted updated medical certificate into evidence – considered that appellant's health as well as ambiguity of termination letter fully and satisfactorily explained delay in lodging application – considered that appellant took steps to dispute dismissal by sending correspondence to respondent after dismissal – also addressed other grounds of appeal – considered that matters taken together amount to exceptional circumstances – Full Bench exercised discretion to allow appellant further period to lodge application under s.365 FW Act – application remitted for conciliation.

C2023/2763 [2023] FWCFB 133
Asbury VP Brisbane 31 July 2023
Gostencnik DP
Clancy DP

Vincent v Roof Safe P/L

TERMINATION OF EMPLOYMENT – misconduct – misappropriation – ss.385, 387, 394 Fair Work Act 2009 – applicant engaged as chief executive officer – dismissed following investigations into serious misconduct allegations – accused of misappropriating approximately $28,000 in company funds without respondent's authorisation – accused of failing to attend work for an extended period and remaining uncontactable – accused of entering into a residential lease in respondent's name without authorisation – application for unfair dismissal – matter listed for

Determinative Conference as matters in dispute could not be resolved – applicant maintained he was authorised to make purchases in question and did not engage in misconduct – respondent denied approving residential lease arrangement and expenditures in question – applicant submitted that dismissal was unfair as he was not dismissed in person – Commission found that respondent made applicant aware of valid reasons for dismissal via show cause letter and meetings – found that applicant had multiple opportunities to respond to allegations – having regard to the size of the business, respondent afforded applicant appropriate procedural fairness – Commission considered other matters relevant to determining whether dismissal was harsh, unjust or unreasonable – noted that respondent reported allegations to WA police and criminal investigations were ongoing – Commission found that applicant had breached contract of employment and engaged in serious misconduct – dismissal not harsh given nature of the misconduct and applicant's role – Commission not satisfied that dismissal was harsh, unjust or unreasonable – application dismissed.

U2022/10389 [2023] FWC 585
Binet DP Perth 7 August 2023

Singh v Certis Security Australia P/L

TERMINATION OF EMPLOYMENT – extension of time – multiple applications – s.394 Fair Work Act 2009 – on 17 March 2023 applicant made first unfair dismissal application alleging dismissal on 14 March 2023 – respondent contended that applicant had not been dismissed as alleged – the Commission determined that applicant had not been dismissed on 14 March 2023 and the first application was dismissed on jurisdictional grounds – on 24 June 2023 applicant lodged second unfair dismissal application alleging dismissal on 14 April 2023 – was not contested that applicant was dismissed on that date – however, as the application was made fifty days outside of the statutory period of 21 days, the applicant could only proceed if they established 'exceptional circumstances' within the meaning of s.394(3) – reasons for delay (s.394(3)(a)) argued as being distress, prosecuting first application and ignorance of the law – distress did not reasonably explain delay – prosecution of first application weighed in favour of applicant as he was so focussed on original application that he did not consider the lawfulness of multiple applications with different dismissal dates – Commission held it was not unreasonable to await Commission's decision on first application before deciding on further action – dealing with first application found to be only in part an acceptable explanation for the delay – mere ignorance of unfair dismissal laws was not an acceptable explanation for the delay – prior action taken to dispute dismissal (s.394(3)(c)) weighed in favour of applicant – other than already defending a jurisdiction issue on the first application, prejudice against the employer was not unique (s.394(3)(d)) – failure to discontinue misconceived first application with jurisdictional issues and commencing a fresh application weighed against applicant – Commission observed situation unusual as applicant filed second application two months after dismissal, but at time of dismissal applicant was already prosecuting misconceived first unfair dismissal application – overall, combinations of circumstances found to be exceptional – extension of time granted.

U2023/5651 [2023] FWC 1892
Anderson DP Adelaide 4 August 2023

Davidson v Sydney Tools

TERMINATION OF EMPLOYMENT – valid reason – harsh – ss.387, 392, 394 Fair Work Act 2009 – application to deal with unfair dismissal remedy – in March 2023 applicant called respondent's office and requested to speak with most senior employee present – only able to speak with employee junior to applicant – applicant requested to borrow ladder from respondent for emergency personal use and said he would return ladder next day – applicant returned ladder next day – on same day, store manager

requested to speak with the applicant about borrowing ladder and they had meeting which took about one minute – in meeting applicant was summarily dismissed and provided with letter of termination – respondent asserted applicant stole ladder, but withdrew that assertion on day of Commission hearing – in the conversation, store manager indicated the ladder incident was not only reason applicant was being terminated – applicant submitted dismissal was harsh, unjust and unreasonable – respondent submitted they had six valid reasons for dismissal including warning for inappropriate conduct, taking leave without notice – Commission considered whether dismissal was harsh, unjust, and unreasonable – Commission found applicant had breached respondent's policies in borrowing ladder without appropriate paperwork – found breach constituted valid reason for dismissal – Commission dismissed respondent's other reasons for dismissal as invalid reasons – Commission affirmed principle that dismissal can be harsh, unjust or unreasonable even though there was valid reason for dismissal [*Victoria v Commonwealth*] – Commission considered four additional issues under s.387(h) – Commission determined respondent should never have alleged applicant engaged in theft, and this meritless allegation supported a finding dismissal was unfair – Commission found applicant made error of judgment in borrowing ladder, but found dismissal was a disproportionate response and significantly weighed in favour of finding dismissal was harsh – Commission found applicant's conduct warranted warning, but was not so incompatible with employment relationship that it warranted summary dismissal – Commission found dismissal process followed by respondent was procedurally unfair because respondent did not give applicant an opportunity to respond – Commission found that if respondent had held a fair investigation, applicant would have been able to explain situation in detail and respondent would not have concluded that applicant engaged in theft – Commission found that dismissal was not unjust but was harsh and unreasonable – Commission considered appropriate remedy – found reinstatement inappropriate – considered compensation and affirmed established compensation methodology [*Sprigg*] – Commission found applicant would have remained in employment for another four months and should be compensated for 4 months wages – Commission found applicant's misconduct in borrowing ladder should reduce compensation by 10% – Commission found no adjustments or discounts needed for viability, length of service, mitigation efforts, compensation cap – compensation of four months' pay ordered to applicant, in lieu of reinstatement, being $19,401.75.

U2023/2601 [2023] FWC 1980
Saunders DP Newcastle 8 August 2023

McInnes v WGC Crane Group P/L

TERMINATION OF EMPLOYMENT – genuine redundancy – ss.385, 389 and 394 Fair Work Act 2009 – application for an unfair dismissal remedy – applicant worked as Business Development Manager on a part-time basis for around three years – applicant had previously rejected two requests from his CEO to move from a part-time role to a full-time role – applicant proposed that his position be made redundant after being asked by his manager whether he would move into a full-time role – manager accepted applicant's request to be made redundant – applicant's employment ended on basis of redundancy – unfair dismissal application filed – applicant contended that the redundancy was a sham – applicant further submitted that he had no other option but to leave employment when being offered the full-time role – respondent contended that the applicant's proposal indicated that there was a business case for a redundancy – respondent further submitted that the manager had no intention of making the applicant redundant – Commission noted that genuine redundancy is a complete defence to an unfair dismissal claim [*Ulan*] – Commission also considered whether the applicant's job was made redundant, whether the respondent had complied with any applicable consultation obligations under a modern award or agreement and whether it would have been reasonable to redeploy the applicant in another role [*Pankratz*] – Commission accepted that applicant had initiated the redundancy and rejected the argument that the redundancy was a sham – observed if redundancy was a sham it was encouraged by applicant who 'happily'

participated – Commission held that the applicant was made redundant – Commission also noted that applicant was not covered under a modern award or agreement – Commission further held that it would not have been reasonable to redeploy the applicant in another role – application dismissed.

U2022/9475 [2023] FWC 2062
Easton DP Sydney 17 August 2023

Raza and anor v First Call Staffing P/L t/a First Call Services

TERMINATION OF EMPLOYMENT – remedy – s.394 Fair Work Act 2009 – two related applications heard together – previous jurisdictional decision determined both applicants were engaged by respondent at time of dismissal – applicants protected from unfair dismissal – Commission to determine whether dismissals unfair and, if so, whether remedy should be provided – no submissions from respondent as they failed to participate in current hearing – Commission noted non-attendance does not mean applicant wins by default – Commission actively explored evidence provided in accordance with statutory considerations and utilised evidence provided in previous jurisdictional decision – whether dismissals unfair – on 28 June 2022 respondent emailed applicants with termination letter effective immediately due to applicants being unresponsive – applicants allege respondent used incorrect email addresses for correspondence prior to email of 28 June 2022 – on 12 and 13 July 2022, respondent apologised and invited applicants to discuss the terminations – Commission found no conduct to constitute valid reason for dismissals – Commission determined applicants were not notified of any valid reason prior to dismissal decision being made – Commission found applicants were not provided with opportunity to respond to any reason related to capacity or conduct, and applicants were not warned about alleged unsatisfactory performance – Commission made allowance for respondent's lack of a human resource management specialist for decision on fairness of dismissals – Commission considered that applicants were not provided with notice of termination or pay in lieu of notice – Commission found both dismissals were harsh, unjust and unreasonable – remedy considered – determined reinstatement was not appropriate – Commission assessed compensation for applicants separately and based on *McCulloch* – both applicants employed for 26 months – due to applicants pattern of work, Commission found anticipated period of employment to be 32 weeks, including a period of notice – Commission deducted $10,251 from Mr Raza's compensation and $6,965 from Ms Gamage's compensation due to other income made between the dismissal and order of compensation – Commission awarded compensation in lieu of reinstatement (plus superannuation contributions) to both applicants.

U2022/7229 and anor [2023] FWC 1759
Hampton DP Adelaide 3 August 2023

Brunskill v Federation Children Nth Geelong P/L

GENERAL PROTECTIONS – extension of time – blank application – ss.365,366 Fair Work Act 2009 – applicant lodged s.365 application – Deputy President considered whether application was made within 21 days – applicant notified of dismissal on 5 May – applicant completed and saved application form via Online Lodgement System on 22 May – accidentally filed blank application form – received auto-response that application received – applicant notified of error on 29 May and advised she had until 12 June to submit a completed form – applicant submitted completed form on 2 June – Deputy President first considered whether submission of a blank form was the equivalent of 'making an application' – Deputy President then considered if application were not made in time whether there exceptional circumstances for extension of time – *Arch* cited where Full Bench held an incomplete application that was submitted was valid – Full Bench held substance rather than the form of what had occurred mattered because Commission staff had treated the application as if it had been made – *Hatch* cited where applicant's unfair dismissal form could not be opened due to a file

restriction – Full Bench held that an application may suffer a defect for purposes of s.366, but still capable of being made – Deputy President noted distinction between an application having been made for purposes of s.366 when submitted – compared to an application having been lodged – if no acknowledgment email sent out then the form may not be lodged according to Rule 14(4) – a generous and purposive construction of what it means to 'make an application' preferable interpretation – reflects Commission's purpose to exercise powers in fair, just, quick and informal manner – like *Arch* unconscionable to proceed on basis no application was filed when Commission staff had acted as if it had been – held submitted blank application form was consistent with s.366 – found the application was made with the 21 day time limit – Deputy President also considered whether exceptional circumstances requirements had been met for granting extension of time – noted exceptional circumstances per s.366 meant 'out of the ordinary course, or unusual, or special, or uncommon' – held that applicant provided an acceptable explanation for delay – noted application was not dealt with by Commission staff for seven days – noted applicant advised in email receipt from Commission that she had 14 days to file a completed application – applicant had an arguable case – no prejudice to employer – held that, were it necessary, considerations weighed in favour of finding that there were exceptional circumstances for granting applicant an extension of time.

C2023/2934 [2023] FWC 1756
O'Neill DP Melbourne 1 August 2023

Maloney v Knowmore Legal Service Ltd

GENERAL PROTECTIONS – dismissal dispute – demotion – ss. 365, 386 Fair Work Act 2009 – application to deal with general protections dispute involving dismissal – applicant's employment covered by enterprise agreement (EA) – applicant initially employed with respondent from 9 October 2014 as Counsellor – promoted to Regional Client Service Manager in 2021 – promoted to Support and Trauma Informed Practice Manager in 2023 – on 20 March 2023 respondent alleged misconduct against applicant – misconduct 'sufficient' to authorise demotion – applicant did not dispute demotion at the time – demotion to Social Worker/Counsellor to occur from 5 April 2023 – demotion intended to be temporary – applicant would progress to senior practitioner role after 6 months – applicant faced substantial salary reduction – applicant did not return to work – applicant alleged demotion was dismissal – respondent argued 'amendment of duties' under misconduct policy included demotion – respondent submited if express term of EA authorises demotion, it is not termination [*James*] – applicant argued no express or implied provision in EA or workplace policy for demotion – Commission considered whether applicant consented to demotion – whether demotion was authorised – whether contract repudiated – whether applicant accepted repudiation – Commission found no express or implicit consent to variation provided by applicant – 'amendment of duties' refers to changes of position or function – respondent intended amendment of duties *and* pay reduction – no reference to reduction of pay in company policy or EA – Commission held applicant demoted – held contract repudiated as applicant did not consent to demotion and demotion not authorised by employment contract and instrument of employer – held applicant dismissed – jurisdictional objection dismissed – application to proceed.

C2023/2436 [2023] FWC 1780
Wright DP Sydney 20 July 2023

Philippe and Ors v Rentokil Initial P/L

TERMINATION OF EMPLOYMENT – misconduct – remedy – ss.387 and 394 Fair Work Act 2009 – applications for unfair dismissal remedy – Applicant 1 employed since 2019 as Sales Consultant in Sales Team responsible for geographical area of West Sydney – Applicant 2 employed since 2011 as Sales Consultant in Sales Team for

geographical area of Southwest Sydney – Applicant 3 employed since 2018 as Key Account Manager for Sales Team – employees paid monthly commission dependent on KPI's under Commission Plan (CP) – sales ordinarily credited to employee in geographic area where customer was located – intended to be individualised to determine commission – Applicants and others in Sales Team 'moved' sales from one person to another often – moving sales resulted in sales credits being swapped or shared – practice discussed regularly in team meetings and communications – Applicants summarily dismissed 15 March 2023 for misconduct by sharing sales credits under CP – Respondent argued sharing sales credits breached company policy and Code of Conduct – Applicants argued it was longstanding practice condoned by management – argued no policy prohibited transfers – Commission considered whether dismissal was harsh, unjust or unreasonable – Applicants aware transfers impacted commission payments – expectation records would be maintained appropriately in accordance with Company Code – Commission satisfied valid reason for dismissal [*Sharp*] – Commission satisfied Applicants given valid opportunity to respond – no unreasonable refusal of support person – Commission considered proportionality of dismissal [*Australia Post*; *AB Oxford*] – policy and Code of Conduct did not explicitly address sales credit transfers – policy not regularly reinforced – culture of tolerance to sales credit transfers – Commission found summary dismissals disproportionate response to breach of CP – Commission satisfied Applicants dismissal harsh and unreasonable – Commission held Applicants unfairly dismissed – remedy considered – Commission held reinstatement was appropriate remedy for each applicant – parties directed to confer on agreed order to restore lost pay.

U2023/2833 and Ors [2023] FWC 2032
Roberts DP Sydney 15 August 2023

Argentier v City Perfume Retail P/L

GENERAL PROTECTIONS – dismissal dispute – certificate – ss.365, 368, 386 Fair Work Act 2009 – applicant successfully applied for a casual position at the respondent's perfume retail company – applicant completed onboarding documentation – applicant and respondent both signed employment contract – respondent requested applicant attend a professional development day before her first shift – applicant asked whether the professional development day would be paid – respondent advised that the professional development day would be unpaid – applicant declined to attend without pay – respondent terminated the applicant's employment in writing – applicant challenged termination – respondent objected – respondent suggested applicant could not have been dismissed as employment had not commenced – Commissioner found that per s.386(1)(a) a person's employment with his or her employer has to be terminated on the employer's initiative – a person is required to have commenced employment in order to be terminated – Commissioner cited [*Khayam*] in which Full Bench held termination of employment at the initiative of employer is to be conducted by reference to the employment contract – Full Bench also held termination depends upon the employment relationship existing or when the relationship comes into existence – Commissioner observed question of whether an employment relationship exists at any point in time is a question of fact [*Melba Support Services*] – found employment contract contained express terms that an employment relationship was established by the terms of the contract – held express terms of agreement brought employment relationship into existence – found applicant had completed the onboarding process and had received employment communication from the respondent – found under contract applicant restricted from working for another employer – held this was consonant with notion employment relationship existed – found communication about the professional training session indicated that the respondent considered there to be an employment relationship on foot – held that respondent terminated applicant's employment via written notice – held that the applicant did apply within the 21 day period – held that the matter would be referred for a conciliation conference.

C2023/2593 [2023] FWC 1819

Ford Meyers v Box Tec P/L

TERMINATION OF EMPLOYMENT – small business fair dismissal code – remedy – ss.394, 388, 399 Fair Work Act 2009 – applicant worked as a sales representative – 21 March 2023 applicant received email from respondent that raised issues with his work – applicant's name was capitalised with exclamation marks in email – applicant's reply email responded capitalising and using exclamation marks on respondent's name – respondent considered this unacceptable and called applicant – verbal altercation during call – respondent suggested applicant resigned during call, saying 'I will be very glad to leave' – following day applicant attended a meeting – respondent stated applicant resigned – applicant denied this – respondent informed applicant employment relationship had ended – put applicant on 'garden leave' – applicant paid for 30 days during which he would handle work matters – applicant ceased employment on 22 March 2023 – 4 April 2023 applicant lodged unfair dismissal application – respondent submitted applicant resigned rather than dismissed and, alternatively, applicant could be terminated immediately due to insubordination – applicant denied he resigned – Commission found that though it is likely that the applicant did state he would be 'glad to leave' during 21 March call parties were agitated and applicant's intention was not to resign – wording found to be sufficiently ambiguous and could not be treated as resignation – held applicant was dismissed – respondent was small business employer – whether summary dismissal considered – respondent submitted applicant was insubordinate and could be terminated immediately – Commission found insubordinate to mean where an employee refuses to obey a lawful instruction – Commission found applicant's behaviour in reply email to be better described as disrespectful and did not accept as basis for summary dismissal – held not summary dismissal – whether 'other dismissal' considered – applicant submitted he received verbal warnings about errors but no written notice and no indication that employment was at risk – respondent stated some written notice was provided in a general memo to employees – Commission found that a general memo is not notification – Commission found applicant not provided opportunity to rectify performance issues identified on 21 March 2023 – Commission found that email and subsequent behaviour did not warrant termination – respondent did not comply with Small Business Fair Dismissal Code – held respondent did not have valid reason for dismissal related to applicant's capacity or conduct – dismissal found to be harsh – applicant sought compensation – respondent submitted compensation not appropriate as applicant failed to pursue alternative employment and extended period overseas weighed against compensation – overseas trip was to visit a terminally ill friend – absence was understandable – Commission found compensation to be appropriate given harshness of termination and impact on applicant – Commission found that given performance and breakdown of relationship employment relationship was unlikely to last beyond 8 weeks – Commission considered 'garden leave' equal to 4 weeks pay and reduced compensation to 4 weeks – applicant submitted he sought other employment within a 'week or two' of dismissal – Commission found that while overseas absence understandable it weighed against a finding of reasonable steps taken to mitigate loss – Commission applied 12.5% reduction to compensation – misconduct from applicant resulted in 5% reduction to compensation – compensation awarded in lieu of reinstatement.

U2023/2878 [2023] FWC 1864
O'Keeffe DP Perth 27 July 2023

Applicant v The Australian Federal Police T/A Australian Federal Police

ANTI-BULLYING – reasonable management action – risk to health and safety – ss.789FC, 789FD Fair Work Act 2009 – applicant is an Australian Federal Police (AFP) officer based in Cairns who works alongside Queensland Police Service Officers – applicant sought a series of stop orders against the AFP – applicant and respondent

jointly requested names of applicant, witnesses and other AFP employees be supressed – Commission agreed to do so to ensure privacy and security of parties and witnesses – Commissioner noted key issue was what constituted 'reasonable management action' – applicant took parental leave from March 2021 to March 2022 – applicant claimed after taking parental leave she was bullied by three different Queensland Police officers (R1, R2 and R3) – applicant claimed bullying included isolating her in her role – not extending her or her team invitations to staff functions – denial of access to evidence – denial of access to resources and police vehicles – being unreasonably reprimanded for not wearing AFP accoutrements and threatened with a Complaints Reporting and Management System (CRAMS) notice – applicant provided her own evidence and supported her evidence with eight witness statements – respondent objected to applicant's supporting witness statements because the claims made could only be categorised as tendency or propensity evidence – Commissioner held that the evidence was of 'limited weight' where the evidence lacked direct relevance to the applicant's evidence – R1 and R2 both gave evidence that denials of access to resources were due to operational requirements, availability and R1 noted they had sought to offer alternatives to the applicant – R1 denied that applicant was excluded from staff functions and that it was a matter for individuals who they wished to socialise with outside of work duties – R2 gave evidence that he had responsibility for reminding AFP staff to ensure that they wear their accoutrements – R2 explained he had not intended to make a threat about the CRAMS notice and had intended this as a joke – R3 gave evidence he had had limited interactions with the applicant over the period the alleged bullying took place – R3 noted that their interactions with the applicant were professional – Commissioner found that none of the instances of the denial of resources alleged by the applicant were 'unreasonable' – Commissioner found respondent took 'reasonable management action' regarding allocation of resources – Commissioner found applicant was not intentionally excluded from invitations to staff functions and that emails had been sent to the applicant regarding such functions on occasion – Commissioner held R2 had not made threats about a CRAMS notice having been filed against the applicant – R2 was found to have taken reasonable management action to remind the applicant of the AFP uniform requirements – Commissioner noted that there were issues with workplace culture in the Cairns office – Commissioner also noted that management had been made aware of those concerns and were undertaking steps to address issues – Commissioner not satisfied applicant was bullied at work by the three named persons, R1, R2 and R3 – Commissioner noted necessary satisfaction of the relevant statutory tests had not been met – Commissioner noted that when a range of individuals provided evidence of their concerns about bullying that the optimum response is for an employer to review their bullying policy – Commissioner noted AFP was reviewing and responding to the workplace cultural issues at the Cairns office – jurisdictional objection pursuant to s.789FD(2) that the conduct complained of was reasonable management action upheld – Commissioner denied the orders requested by the applicant – application was dismissed.

SO2023/17 [2023] FWC 1993
Spencer C Brisbane 10 August 2023

The Trustee for Hanna 5 Trust t/a Little Henri v The Trustee for B Positive Trust t/a Positive HR P/L

CASE PROCEDURES – costs – unpaid representative – s.376 Fair Work Act 2009 – costs respondent (Ms Bilston-Gourley) operated business that purported to provide expert industrial relations services – on General Protections application, Ms Bilston-Gourley indicated that she was a paid agent and confirmed same at hearing – she later departed from this position, stating she was the sister of the applicant in General Protections matter and her claim to being paid agent was made due to panic and pressure – costs respondent unresponsive during General Protections matter – General Protections matter discontinued soon after non-compliance hearing – costs application filed following discontinuance – Commission considered whether costs respondent was paid agent and whether she caused costs to be incurred by costs

applicant – Commission accepted evidence from Ms Bilston-Gourley brother that in making his General Protections application he was neither charged nor paid a fee to his sister – also despite representations on her website about experience in industrial relations, Commission found Ms Bilston-Gourley demonstrated such limited understanding of proceedings that her initial presentation as being a paid agent was an error – not being a paid agent within the meaning of the Act, Commission concluded application for costs could not succeed but nonetheless observed that behaviour of costs respondent (including making false representations as to the existence of additional witness statements) did not make significant difference to materials applicant had to prepare nor cause costs to be incurred – application dismissed.

C2023/4639 [2023] FWC 2048
Lee C Melbourne 17 August 2023

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Websites of Interest

Department of Employment and Workplace Relations - https://www.dewr.gov.au/workplace-relations-australia - provides general information about the Department and its Ministers, including their media releases.

AUSTLII - www.austlii.edu.au/ - a legal site including legislation, treaties and decisions of courts and tribunals.

Australian Building and Construction Commission – www.abcc.gov.au/ - regulates workplace relations laws in the building and construction industry through education, advice and compliance activities.

Australian Government - enables search of all federal government websites - www.australia.gov.au/.

Federal Register of Legislation - www.legislation.gov.au/ - legislative repository containing Commonwealth primary legislation as well as other ancillary documents and information, and the Federal Register of Legislative Instruments (formerly ComLaw).

Fair Work Act 2009 - www.legislation.gov.au/Series/C2009A00028.

Fair Work (Registered Organisations) Act 2009 - www.legislation.gov.au/Series/C2004A03679.

Fair Work Commission - www.fwc.gov.au/ - includes hearing lists, rules, forms, major decisions, termination of employment information and student information.

Fair Work Ombudsman - www.fairwork.gov.au/ - provides information and advice to help you understand your workplace rights and responsibilities (including pay and conditions) in the national workplace relations system.

Federal Circuit and Family Court of Australia - https://www.fcfcoa.gov.au/.

Federal Court of Australia - www.fedcourt.gov.au/.

High Court of Australia - www.hcourt.gov.au/.

Industrial Relations Commission of New South Wales - www.irc.justice.nsw.gov.au/.

Industrial Relations Victoria - www.vic.gov.au/industrial-relations-victoria.

International Labour Organization - www.ilo.org/global/lang--en/index.htm - provides technical assistance primarily in the fields of vocational training and vocational rehabilitation, employment policy, labour administration, labour law and industrial relations, working conditions, management development, co-operatives, social security, labour statistics and occupational health and safety.

Queensland Industrial Relations Commission - www.qirc.qld.gov.au/index.htm.

South Australian Employment Tribunal - www.saet.sa.gov.au/.

Tasmanian Industrial Commission - www.tic.tas.gov.au/.

Western Australian Industrial Relations Commission - www.wairc.wa.gov.au/.

Workplace Relations Act 1996 - www.legislation.gov.au/Details/C2009C00075

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