FWC Bulletin

7 March 2024 Volume 3/24 with selected Decision Summaries for the month ending Thursday, 29 February 2024.

Contents

Free courses available on our Online Learning Portal

05 Feb 2024

We recently updated our free Preparing for an unfair dismissal conciliation module .

Designed for both employers and employees, this module:

- explains the conciliation process
- provides tips on how to prepare
- describes the role of conciliators and other participants
- explains potential outcomes
- includes a downloadable checklist.

The module is part of the growing range of free resources available on our Online Learning Portal .

Current topics include:

- Preparing for an unfair dismissal conciliation
- Workplace sexual harassment
- Interest-based bargaining – a collaborative approach to enterprise bargaining.

More resources will be added throughout 2024.

To keep up to date on when new resources are launched, subscribe to our Learning, tools and resources updates , or follow us on LinkedIn .

Draft revised Fair Work Commission Rules published

09 Feb 2024

The *Fair Work Commission Rules 2013* govern the practice and procedure to be followed for different types of cases at the Commission.

The Rules are due to sunset (expire) on 1 April 2024, and must be remade before the sunset date.

We are taking the opportunity to review the Rules to make sure they still meet the needs of the Commission and the people who use our services. This includes updating them for legislative changes and to improve usability.

Download:

- Draft revised Fair Work Commission Rules
- Explanatory note for the draft Rules
- President's statement on revised draft Rules

Changes to withdrawals from amalgamation from today

27 Feb 2024

The *Fair Work Legislation Amendment (Closing Loopholes No. 2) Bill 2023* received Royal Assent on 26 February 2024.

It amends the *Fair Work (Registered Organisations) Act 2009* relating to registered organisations and withdrawal from amalgamation.

From 27 February 2024, the Fair Work Commission can no longer accept applications for a de-merger ballot more than 5 years after the relevant amalgamation has occurred.

For de-merger ballot applications made within 5 years of the relevant amalgamation, the Registered Organisations Act:

- narrows the definition of 'separately identifiable constituent part' in section 93(1)
- amends provisions about:
    - the conduct of ballots
    - the proposed name of the relevant organisations and the proposed rules, or alterations of rules, of the relevant organisations and when they take effect at the conclusion of a de-merger process
    - the Commission's power to accept undertakings to avoid demarcation disputes, and
    - membership of the newly registered organisation.

Closing Loopholes No.2 Act has commenced

27 Feb 2024

The *Fair Work Legislation Amendment (Closing Loopholes No. 2) Bill 2023* received Royal Assent on 26 February 2024.

From 27 February 2024, the Closing Loopholes No. 2 Act makes changes to:

- enterprise bargaining provisions relating to multi-enterprise agreements and franchisees
- intractable bargaining provisions
- provisions relating to registered organisations and withdrawal from amalgamation.

A range of other measures impacting the Fair Work Commission will commence in the coming months.

This includes provisions relating to the road transport industry, 'employee-like' workers performing digital platform work in the gig economy, and the 'right to disconnect', which will commence in 6 months on 26 August (or another date by proclamation).

President Hatcher has published a Statement setting out how we intend to implement the measures impacting the work of the Commission. He writes:

> "The Closing Loopholes No. 2 Act reforms are significant, and the successful implementation of these reforms will require extensive consultation with diverse stakeholders, subject matter experts and interested persons. It will be our priority to establish case management processes that are easy for users to understand and navigate, are clearly communicated, minimise the regulatory burden and are fit for purpose.
>
> As highlighted in my previous Statements, the Commission remains steadfast in its commitment to implementing the changes in an open and transparent way and with the needs of our users at the heart of the design of our services."

A full list of the measures impacting the Commission along with their commencement dates is on The Closing Loopholes Acts – what's changing page on our website.

Read:

- The President's statement (pdf)
- The Closing Loopholes Acts – what's changing.

We will publish more information on the changes over the coming months. Keep up to date by subscribing to Announcements or following us on LinkedIn .

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, 29 February 2024.

1 INDUSTRIAL ACTION – order against industrial action – revocation – s.418 Fair Work Act 2009 – applicant applied for s.418 order that employer response action was unprotected industrial action and stop or not occur – orders directed at Orora Packaging Australia P/L (Orora) and its representative, Australian Industry Group (AiGroup) – s.420(1) requires Commission consider the application within two days after an application is made – Commission is required to make an interim order if a stop industrial action order is not made within two days per s.420(2) – Commission made interim order on 19 January 2024 stopping industrial action – on 10 October 2023 a Protected Action Ballot Order (PABO) was made after application by AMWU – compulsory conciliation conference was arranged – due to disagreement about service of documents via email a mention was held instead – subsequent orders required that documents notifying of a PABO and notices of listing be delivered by hand to employee bargaining representatives – on 14 November 2023 all employee bargaining representatives attended the s.448A conference – employees voted in favour for industrial action on 22 November 2023 – Commission granted AMWU application to extend the 30-day period in which industrial action is authorised on 19 December 2023 – AMWU advised Orora of intention to engage in various stoppages, overtime ban and a ban on paperwork and or data entry on 10 January 2024 – Orora provided written notice on 16 January 2024 that it intended to take employer response action – employer response action would involve various lockouts to worksites commencing after the engagement of employee claim action – AMWU relied on s.413(5) that Orora had not complied with orders that applied to them – AMWU claimed that Orora had contravened the Commission's orders regarding service of employee bargaining representatives regarding the compulsory conciliation conference in October 2023 – Deputy President agreed that AMWU's evidence demonstrated Orora had not met one of the three service requirements outlined at r.42(2)(f)(ii) of *Fair Work Commission Rules 2013* – Orora had used work email addresses of employee bargaining representatives, however this was not a common form of communication with the employees – Orora responded by filing application seeking to have the 17 October 2023 Order revoked – Orora relied upon *Esso Australia P/L v The Australia Workers Union* (*Esso*) in which High Court held that s.603 provided Commission with broad powers to vary or revoke orders retrospectively – power to do so was discretionary – High Court noted Commission may also decline to vary an order if it was inappropriate or interfered with parties' rights – Orora submitted *Esso* allowed the Commission to use its powers under s.603 to revoke or vary the relevant order – Orora submitted that varying or revoking an order can have a retrospective effect – reasonable for Orora to assume work email addresses would work – Orora claimed discretionary considerations pointed in favour of relief sought – AMWU relied on *Esso* to claim s.413(5) purpose

was to deny the immunity of protected actions to persons who had previously not complied with pertinent order or orders – reasonable to expect experienced employer representative from AiGroup would comply with the Commission's service requirements – AMWU claimed Orora failed to provide a good reason for its failure to comply with the 17 October Order and Directions – AMWU cited (the then applicable) s.409(6A) which required bargaining representatives comply with order and if a party was non-compliant that the consequences would be that subsequent industrial action would not be protected action – Orora submitted that 17 October 2023 Order did not engage s.413(5) – s.603 needs to exercised in the context of the statute as a whole – Deputy President decided to revoke paragraph 2 of the 17 October 2023 Order per s.603(1) – Deputy President not persuaded AiGroup representative did not take sufficient care to comply with the Commission's rules for service – AiGroup representative only received one bounce back email from an employee bargaining representative – Commission satisfied that employee bargaining representatives had been served – Deputy President was satisfied that chronology of events and circumstances outlined both a good reason and satisfactory excuse for not complying with requirements of service – parties not adversely impacted as conference listed on 26 October 2023 did not proceed on that day – refusal to revoke the 17 October 2023 Order would result in prejudice to Orora because it would preclude the possibility of it taking protected industrial action – Deputy President made order pursuant to s.603 to revoke paragraph 2 of the Order in the 17 October 2023 Order and Direction – Deputy President concluded that by making the order Orora could proceed with its employer response action.

"Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union" known as Australian Manufacturing Workers' Union (AMWU) (188V) v Orora Packaging Australia P/L

C2024/312 [2024] FWC 283
Clancy DP Melbourne 2 February 2024

2 TERMINATION OF EMPLOYMENT – termination at initiative of employer – workers compensation – prior to termination applicant suffered workplace injury – workers compensation claim made in relation to knee injury – applicant certified fit for light duties – after a time respondent advised it could no longer accommodate light duties and could not offer applicant work – respondent commenced workers compensation payments to applicant and sought reimbursement from insurer – applicant suggested respondent's payments were less than insurer's assessment of his pre-injury average weekly earnings – respondent refused to back pay difference until reimbursed by insurer – insurer made payment directly to applicant – during two consecutive pay periods applicant received payment from both respondent and insurer – applicant informed insurer of double payment, insurer told applicant to retain payment to cover anticipated underpayment by respondent – applicant reported double payment to respondent – respondent terminated applicant's employment by text message without notice for alleged dishonest behaviour and fraud – applicant challenged dismissal – whether valid reason for dismissal considered – Commission did not accept applicant sought to obtain multiple payments for same period of time – found applicant did no more than speak to two parties in effort to receive payments he was entitled to receive – further

found applicant brought double payment to attention of both respondent and insurer – Commission observed more effective communication between respondent and insurer could have avoided situation however ultimately applicant suffered the consequences – held no valid reason for termination – Commission noted other relevant factors under s.387(h) relevant to whether dismissal harsh, unjust or unreasonable – found applicant summarily dismissed by text message and no investigation undertaken by respondent despite plausible explanation for double payments offered by applicant – found respondent had been fully reimbursed by insurer for periods in question while applicant had not been paid for period ending 8 October 2023 despite insurer providing payment to respondent – found dismissal removed applicant's security of full-time position in circumstances where applicant trying to recover from workplace injury – held termination was harsh and unreasonable – remedy considered – reinstatement not appropriate, compensation assessed – found applicant would have remained in employment for further twelve months had employment not been terminated – Commission took into account amount applicant earned from workers compensation between date of dismissal and date of order – applicant's injury and capacity considered as 25% contingency – compensation of $11,400 ordered.

Hahn v Hewitt Holdings Bathurst P/L

U2023/9956		[2024] FWC 299
Roberts DP	Sydney	5 February 2024

3 TERMINATION OF EMPLOYMENT – misconduct – reinstatement – s.394 Fair Work Act 2009 – three applicants dismissed by respondent, TAFE – applicants claimed unfairly dismissed – applicants sought reinstatement – allegation Mr Jason Kildey (Mr Kildey) unqualified to teach plumbing – allegation Mr Norman Browne (Mr Browne) partner of Ms Kerr improperly involved with recruiting Mr Kildey for position – allegations that Ms Kerr improperly recruited two other relatives – investigators found applicants involved in fraud, dishonesty, corruption – applicants dismissed because of investigators findings – respondent claimed Mr Kildey not protected from unfair dismissal because casual employee – Deputy President held Mr Kildey's employment was regular and systematic – Deputy President held Mr Kildey protected from unfair dismissal – Deputy President noted Mr Kildey had 20 years of experience as a Safety Officer – had multiple qualifications in work health and safety – Mr Kildey helped respondent address Australian Skills Quality Authority audit (ASQA) regarding course delivery, resources and assessment tools – Mr Browne had authority to nominate a person on acting arrangements in exceptional circumstances to address ASQA audit issues – Mr Browne nominated Mr Kildey as casual teacher – Ms Kerr assisted administrative process for employing Mr Kildey – Deputy President held Mr Kildey engaged to provide specialist teaching about safety – Mr Kildey's supervisor arrangements set up to prevent conflict of interests due to the personal relationship between Mr Kildey/Mr Browne – Mr Kildey reported to another staff member – Deputy President considered complaint regarding Ms Kerr assisting with hiring other relatives – Ms Kerr advised relatives to apply as temporary staff at hiring agency TAFE used to source temporary staff – relatives hired to fill two of four vacancies – complaint Mr Kildey not qualified as part time plumbing teacher – allegation of conflict of interest

because Ms Kerr was Mr Kildey's aunt – investigation identified Ms Kerr had not made conflict of interest declaration she was the Mr Kildey's aunt – investigation took over 18 months to complete – none of applicants interviewed by investigators – interviews with other respondent employees – applicants provided with redacted copies of the report – investigator found Mr Kildey not qualified as a plumbing teacher – Mr Kildey did have vocational qualification as a plumbing teacher – did not have three years post qualification experience – Mr Kildey acted dishonestly by not declaring conflict of interest – acted dishonestly by allegedly obtaining and retaining employment despite not having the qualifications or experience – investigator found Mr Browne improperly employed Mr Kildey when he did not have the skills and qualifications – investigator found Mr Browne caused student fees owed by Mr Kildey to be waived – Mr Browne failed to disclose a conflict of interest during recruitment of Mr Kildey – Ms Kerr failed to disclose conflicts of interest regarding family relationships with Mr Kildey and relatives employed at respondent – allowed Mr Kildey to be employed when he was not qualified for position – investigator found allegations were substantiated – respondent adopted all investigator's findings – applicants sent show cause letters – applicants claimed not provided with all investigation materials – applicants claimed respondent failed to follow guidelines for management of conduct and performance – applicants dismissed by respondent – Deputy President cited *Byrne* – High Court outlined whether a dismissal is harsh, unjust, or unreasonable – cited *Selvachandran* definition of valid reason which was "given the meaning of sound, defensible or well-founded" – Deputy President considered s.387 factors for whether a dismissal is harsh, unjust or unreasonable – Deputy President held that Mr Kildey was engaged as a specialist teacher in the area of workplace health and safety – Mr Kildey qualified to teach courses – Deputy President found Mr Kildey not required to declare a conflict of interest – no situations arose where decisions Mr Kildey was taking could be described as a conflict of interest – Deputy President held no valid reason for Mr Kildey's dismissal – Deputy President held s.387(b)-(f) considerations were neutral factors in weighing whether dismissal was harsh, unjust or unreasonable per *Read v Cordon Square Child Care Centre* – Full Bench held in *Read* that when reasons for dismissal do not constitute a valid reason for dismissal then factors s. 387(b) and (c) are neutral considerations – Deputy President considered Mr Kildey was not able to properly respond because material provided was incomplete and heavily redacted – Mr Kildey was not interviewed by investigator or respondent during the show cause process – Deputy President held Mr Kildey denied procedural fairness and coupled with lack of valid reason his dismissal was harsh, unjust and unreasonable – Deputy President considered Mr Browne's dismissal regarding whether he improperly employed Mr Kildey, failed to declare a family relationship and waived fees payable by Mr Kildey – Deputy President found Mr Kildey was properly employed given the urgent need to employ a teacher who could fill the gaps identified in the ASQA audit – Deputy President held that although the family relationship was not declared via a form – relationship was known by respondent – steps taken to avoid a conflict of interest by having another staff member manage Mr Kildey – Deputy President found Mr Browne admitted error in causing Mr Kildey's fees to be waived – Mr Browne not dishonest in doing so – Deputy President held no valid reason for dismissal of Mr Browne – Mr Browne not guilty of alleged misconduct – Deputy President considered the s. 387 factors finding s.387(b)-(f) considerations were neutral factor in

weighing whether the dismissal was harsh, unjust or unreasonable – Deputy President held respondent had not followed its own guidelines during the investigation process – Deputy President found Mr Browne's dismissal was harsh, unjust and unreasonable – Deputy President considered Ms Kerr's dismissal for failure to declare a family relationship with Mr Browne and other relatives – Deputy President held no conflict of interest needed to be declared by Ms Kerr regarding Mr Kildey's employment – Ms Kerr did not make decisions regarding Mr Browne's employment – Deputy President found an urgent requirement for work to be done – shortage of available alternative candidates other than employment of relatives – Deputy President held two relative's employment not improper – Deputy President found Ms Kerr engaged in misconduct for not declaring conflict of interest – not misconduct justifying dismissal – Deputy President held no valid reason for dismissal of Ms Kerr – Deputy President found Ms Kerr not treated fairly by respondent – Deputy President weighed the s.387 factors and held that dismissal was harsh, unjust and unreasonable – Deputy President considered reinstatement appropriate remedy for all three applicants – Deputy President held that per *Nguyen* the question that needed to be decided was whether there was sufficient trust and confidence to make the relationship viable and productive – Deputy President held the respondent was willing to change its views of the applicants – Mr Browne and Ms Kerr's positions filed on an interim basis – Mr Kildey able to return to fill a vacant teaching position – Deputy President ordered respondent to restore lost pay taking into account any remuneration earned by the applicants since their dismissal per s.391(4).

Kildey and Ors v Technical and Further Education Commission

U2023/6025 and Ors		[2024] FWC 383
Slevin DP	Sydney	13 February 2024

4 ENTERPRISE BARGAINING – protected action ballot – scope – ss.437, 443, 173 Fair Work Act 2009 – applicant applied for protected action ballot order (PABO) of both respondent's employees – after request by applicant, both respondents had issued Notice of Employee Representational Rights (NERR) to commence bargaining, before issuing a further NERR in December 2023 to notify applicant that it wished to bargain for a multi enterprise agreement to cover employees of both respondents – applicant contended that proposed enterprise agreement would cover wage-paid staff paid under existing agreement, and salaried staff paid under General Retail Industry Award 2020 – applicant also contended that NERR issued by respondents constituted notification time in relation to proposed agreement as required by s.437 – respondent objected to PABO application on basis that there was no notification time, that the applicant was not, and had not been, genuinely trying to reach agreement as required by s.443, and of issues with proposed draft order – applicant agreed to amend draft order to address respondent's concerns, remaining 2 objections heard before Commission – respondent submitted that salaried employees were not covered by previous agreements or NERR, and that their inclusion in PABO application by applicant would extend the scope of the NERR – as such, there had been no notification time required by s.437(2A) – respondent also submitted that application was premature and applicant had not been genuinely trying to reach agreement in respect of the award-covered salaried employees – respondent contended that

bargaining history only concerned wage-paid employees – further submitted that the Act does not permit broadening of scope of proposed agreement's coverage via a PABO application – respondent submitted that proposal to expand scope of proposed agreement was only broached in a preliminary manner 3 weeks before PABO application, and this could not constitute "genuine effort to negotiate on scope" – in response, applicant submitted that notification time was created by respondents' initiation of bargaining, and that respondents "ought to have known [applicant] had a strategic desire to have an agreement which included salaried employees" – applicant also contended that they had discussed a proposal to extend coverage at a January 2024 meeting, which was denied by respondents – Commission satisfied that applicant was seeking to extend coverage of PABO application beyond agreement covered employees – Commission satisfied that applicant and respondents had been bargaining for roughly a year for a proposed agreement covering same, or substantially same group of employees as previous agreement which covered only wage-paid staff – Commission further observed respondents' proposed change to coverage in December 2023, to effect that both respondents would bargain for a multi-enterprise agreement, was simply to combine bargaining in relation to two sets of employees covered by two separate enterprise agreements – evidence suggested that respondent's initiation of bargaining for multi-enterprise agreement could not be taken to have concerned salaried staff, and no subsequent agreement was made to amend scope of proposed agreement – Commission discussed December 2022 amendments to Act regarding notification time; while there may be disagreement as to a proposed agreement's scope, guidance can be gleamed from parameters of s.173(2A), which allows written bargaining request where proposed agreement covers the same or substantially the same employees (amongst other requirements) – Commission concluded that notification time could not have been in relation to salaried staff, and applicant made no other applications to widen scope of bargaining – considering all relevant circumstances, Commission also found that applicant was not, and had not been, genuinely trying to reach agreement in relation to salaried staff – application dismissed.

Retail and Fast Food Workers Union Incorporated t/a Retail and Fast Food Workers Union Incorporated v Coles Supermarkets Australia P/L t/a Coles Supermarkets, Liquorland (Australia) P/L t/a Liquorland, First Choice Liquor Market, Vintage Cellars

B2024/80		[2024] FWC 317
Yilmaz C	Melbourne	8 February 2024

Other Fair Work Commission decisions of note

Healy v Wage Inspectorate Victoria

TERMINATION OF EMPLOYMENT – incapacity – misconduct – ss.387, 394 Fair Work Act 2009 – applicant employed as a child employment authorised officer – applicant dismissed due to incapacity to perform inherent requirements of role and for misconduct – respondent alleged applicant unfit for work for 18 months due to workplace injury – allegation of misconduct related to breach of respondent policy – alleged political statements made by Applicant on social media – applicant's treating doctor and an independent medical examiner opinion that applicant had no capacity to perform his job – applicant 's medical conditions alleged to have arisen due to treatment by management including agency head – agency head a statutory appointee – treating doctor recommended mediation to facilitate return to work –

applicant alleged respondent failed to consider recommendations – Commission considered both past and future incapacity – held applicant's incapacity to perform role was a valid reason for dismissal – Commission held decision not to engage in mediation reasonable – mediation likely to be futile and burdensome on respondent – Commission held respondent had already dealt with applicant's complaints and mediation not likely to yield any benefit – applicant not able to return under current management structure – Commission held public statements made on Twitter expressing strong partisan political views also amounted to valid reason for dismissal – noted public servants entitled to political views, however strident political statements were liable to corrode public confidence in impartiality of public service – no procedural fairness considerations arose in relation to capacity reason – applicant not notified or given opportunity to respond to second reason for dismissal – Commission gave little weight to considerations due to gravity of conduct – other relevant matters considered – length of service and alternatives to dismissal not sufficient to outweigh valid reasons for dismissal – applicant claimed he had been a good employee and raised occupational health and safety concerns – Commission held applicant appeared to consider himself a champion of workplace safety but lacked insight into hazards caused by his own conduct – dismissal was not harsh unjust or unreasonable – application dismissed.

U2023/9623 [2024] FWC 344
Colman DP Melbourne 8 February 2024

Livesey v ULL WA P/L

GENERAL PROTECTIONS – dismissal dispute – notification – s.365 Fair Work Act 2009 – stepfather of the 17-year old applicant worked for the respondent – on 20 September 2023, applicant subsequently obtained a job working for the respondent upon moving into a sublet house with his stepfather in the work yard – all seemed to be well until applicant attempted to report an assault by a colleague that allegedly occurred on 8 November 2023 – applicant alleged colleague verbally and physically assaulted him over not being satisfied with his quality of work – applicant said he called his mother as he could not reach the respondent – mother sent a text message to respondent informing her of what had taken place and that she would be the point of contact – what occurred next was at the centre of the factual dispute between the parties – applicant contends he was stood down instantly and soon lost his job after reporting the incident – respondent contended applicant was not dismissed and was unaware he thought he was dismissed until they received the general protections application – respondent objected to application on the grounds that the applicant had not been dismissed within meaning of s.386 – Commission found applicant's mother to be a more credible witness than the respondent – respondent's representative drew attention to the text message applicant's mother had sent her son prior to speaking to the respondent – she expressed discontent as ostensibly no disciplinary action had been taken against the alleged perpetrator of the assault on her son – respondent's representative pointed out that this occurred before her phone call with the respondent – Commission accepted mother's evidence that she was merely expressing anger in response to the circumstances where the man who allegedly assaulted her son was back at work and the incident had apparently not been addressed – respondent claimed she responded to a text message from the applicant's mother by asking what the mother would like to be done about it as both parties involved in the incident appeared to be fine – respondent stated that she had commenced an incident report the day after it happened – respondent argued that the applicant had not filled out the incident form and she could not make progress as he did not answer the door of the rental house the previous day – Commission was not convinced as respondent had permitted the alleged perpetrator to continue work and did not seek to speak to the applicant about what occurred – applicant's mother suggested respondent told her alleged perpetrator could not be dismissed as he had drivers licence and tickets to perform work and that respondent's business would be incapacitated if it lost alleged perpetrator – applicant's mother sent respondent a text message asking whether her son and his stepfather were dismissed as respondent

needed the alleged perpetrator to remain in the business due to having a driver's licence – during hearing respondent obfuscated and was cautioned by the Commission when asked whether the text message reflected the content of the call – the Commission found respondent's evidence on that point unpersuasive and that the mother's account was more believable – therefore unconvinced by the respondent's claim that first time they knew applicant believed he was dismissed was when they received the dismissal application – respondent contended they never notified the applicant of dismissal – the applicant conceded that he was advised of his dismissal by his mother and stepfather – the Commission found that the applicant's mother unequivocally advised the respondent that she was the point of contact for the applicant – it followed that when the respondent told mother that her son no longer had a job, respondent had effectively notified the applicant's agent – accordingly, the Commission found that the applicant's dismissal was at the initiative of the respondent and that his dismissal took effect on 8 November 2023 – application made pursuant to s.365 to be programmed for a conciliation conference.

C2023/7419 [2024] FWC 287
Beaumont DP Perth 5 February 2024

McGennan v Park

TERMINATION OF EMPLOYMENT – process – ss.394, 386 Fair Work Act 2009 – applicant worked as apprentice in hair salon owned/operated by respondent – respondent had provided prior verbal warnings based on applicant's conduct – passing comment by respondent concerning applicant to long-term client became misunderstanding through gossip shared with applicant – led to tensions between applicant, respondent and long-term client – respondent warned applicant again via text on 4 July 2023 – written notice provided 11 July 2023 with applicant dismissed same day via text – applicant sought remedy in relation to dismissal – Commission observed s.386 is clear a person dismissed when terminated on employers' initiative – found respondent had no intention to continue employment relationship beyond 15 July 2023 – found applicant dismissed within s.386 – found applicant was a person protected from unfair dismissal – respondent argued it complied with Small Business Fair Dismissal Code – Commission examined whether Code followed – observed Code outlined 'employer must give the employee an opportunity to respond to the warning and give the employee a reasonable chance to rectify the problem, having regard to the employee's response' – although formally warned on 4 July, applicant had no chance to improve performance once formal warning provided – determined respondent failed to comply with Code – whether dismissal unfair considered – Commission reinforced 'dismissal must be a justifiable response to the relevant conduct or issue of capacity' [*Smith*] – observed issue with long-term client escalated too quickly – reason for dismissal more due to loss of long-term client than previous conduct issues – unreasonable to pressure applicant to apologise and sign written notice without investigation – despite presence of valid reasons for dismissal, eventual reason given by respondent 'somewhat spiteful and capricious' – Commission not satisfied notice given in explicit, plain and clear terms, as required – found respondent's conduct meant applicant not formally put on notice – found no evidence of refusal for support person – observed lack of dedicated human resources and size of business impacted process – further observed applicant could have dealt with situation more professionally – held applicant unfairly dismissed under s.394 – applicant entitled to remedy – further hearing to determine remedy.

U2023/5979 [2024] FWC 255
Lake DP Brisbane 31 January 2024

Bonora v Council of The City of Ryde

GENERAL PROTECTIONS – jurisdiction – national system employer – ss.14, 338, 339, 365 Fair Work Act 2009, s.220 Local Government Act 1993 (NSW) – applicant

commenced employment with respondent in April 2023 and was dismissed during their 6-month probation period – applicant filed general protections application – respondent submitted Commission did not have jurisdiction to deal with application – matter determined on papers by consent between parties – main question for Commission was whether respondent is covered under FW Act by dint of it being constitutional corporation or national system employer – Commission considered s.14 and determined that respondent is not national system employer as it is a 'body established for a local government purpose by or under a law of a State' – Commission considered effect of LG Act, High Court's decision in *Queensland Rail case*, Federal Court's decision in *Etheridge Council case*, and relevant Commission decisions – Commission found that respondent is artificial legal entity, constituted by legislation, that can bear rights and duties – Commission found respondent is body politic as described under s.220 LG Act but noted LG Act does not remove legal possibility that respondent is a constitutional corporation [*Queensland Rail*] – Commission affirmed approach to constitutional construction that foundation of Constitution is conception of central government and State governments separately organized [*WorkChoices*] – Commission also affirmed that Constitution predicates States' continued existence as independent separate bodies politic each having legislative, executive and judicial functions [*WorkChoices*] – Commission considered whether respondent fulfills definition of trading corporation – Commission applied activities test and considered if respondent is a trading corporation – Commission found that respondent is not a trading corporation as its activities were undertaken to provide community services and can be categorised as activities it was required to do as local government – Commission found that respondent is not constitutional corporation because it is not trading corporation, financial corporation or foreign corporation. Commission found respondent is not national system employer or an entity whose actions are covered under FW Act – application dismissed.

C2023/5640 [2024] FWC 384
Easton DP Sydney 12 February 2024

Lainas v AMSPEC Australia P/L

TERMINATION OF EMPLOYMENT – valid reason – remedy – ss.391, 394 Fair Work Act 2009 – applicant received a show cause letter containing allegations of misconduct – applicant provided one day to respond to letter – applicant responded to three of the four allegations and asked for particulars regarding the fourth allegation – applicant terminated from employment the following day – whether there was a valid reason for dismissal – reason for a dismissal should be "sound, defensible or well founded" and should not be "capricious, fanciful, spiteful or prejudiced" [*Selvachandran*] – secret recordings of workplace discussions can have the potential to lead to the corrosion of a healthy and productive workplace environment [*Gadzikwa*] – allegations comprised of sending inappropriate emails to colleagues and displaying aggressive behaviour – respondent also relied on applicant's history of alleged insubordinate conduct engaged during employment, general dishonesty and covert recordings of meetings – general dishonesty and covert recordings allegations not mentioned in show cause letter and only raised during Commission proceedings – applicant submitted covert recordings were not valid reasons to dismiss an employee and were taken in the context of disciplinary meetings – respondent submitted other individuals in the recordings did not consent to the recordings and those meetings were held in confidence – Commission noted that covert recordings were highly inappropriate in the circumstances – Commission held misconduct allegations outlined in show cause letter and covert recordings were valid reasons for dismissal – whether the applicant had an opportunity to respond – employer should notify an employee of reasons for terminating employment prior to the decision to terminate, in explicit terms, and in plain and clear terms [*Wright*] – reasons for dismissal were provided to applicant in show cause letter – applicant contended he was not afforded procedural fairness due to the respondent stating the allegations in the show cause letter and not taking reasonable steps to investigate the allegations – respondent submitted applicant was given an opportunity to respond including to meet and discuss the

allegations in person, but had rejected such a proposal – Commission noted the respondent's Executive Vice President had no interest in fair process to the applicant – Commission also noted applicant had been given an inadequate amount of time to respond – Commission held applicant had not properly been given an opportunity to respond – Commission also held applicant had not been told explicitly that his behaviour was unacceptable – Commission also took into consideration that respondent had not offered applicant an alternative option to termination – Commission held dismissal harsh, unjust and unreasonable – applicant submitted reinstatement be ordered based on his limited interactions with managers involved in the allegations – applicant conceded there would be a low level of trust if he were to be reinstated – respondent claimed working relationship between applicant and management had broken down – whether reinstatement is an appropriate remedy will depend on whether there can be a sufficient level of trust and confidence restored in order to make working relationship viable [*Nguyen*] – Commission noted that if reinstated, applicant would still continue to have some contact with managers involved in allegations – Commission satisfied respondent's loss in trust and confidence was well-placed and rational – reinstatement not ordered – applicant awarded compensation.

U2023/6590 [2024] FWC 311
O'Neill DP Melbourne 7 February 2024

Tidmarsh v Aspire 2 Life P/L

GENERAL PROTECTIONS – contractor or employee – s.365 Fair Work Act 2009 – applicant engaged as support worker – engagement governed by Contracted Service Provider Agreement (Agreement) and Contractor Work Opportunity (Work Opportunity) – respondent provided aged care support coordination – applicant raised concerns about working arrangements with Fair Work Ombudsman (FWO) – applicant informed respondent that FWO had been notified – respondent terminated contract citing 'irreconcilable differences' shortly after – applicant challenged dismissal – respondent raised jurisdictional objection, contending applicant not an employee and therefore not dismissed – Commission required to determine jurisdictional objection before dealing with dispute under s.365 [*Coles v Milford*] – whether applicant employee or contractor considered – Commission observed Act leaves issue of who is an employee to common law – analysis must be on legal rights and obligations created by contract between parties [*Personnel Contracting*] – Commission noted terms of relationship contained in Agreement and Work Opportunity – Agreement and Work Opportunity described applicant as independent contractor and Agreement stated nothing within constituted employee/employer relationship – Commission found those terms had little weight, noting plurality in *Personnel Contracting* that opinion of parties on a matter of law is irrelevant – own business/employer's business dichotomy considered – observed various terms of Agreement and Work Opportunity created obligations consistent with applicant operating an independent business – applicant required to maintain ABN, be responsible for own tax and superannuation payments, maintain workplace injury and other insurance, and provide own equipment – also observed other terms pointed to applicant being integrated into and serving in respondent's business – noted applicant was to provide *the* care services respondent had contracted with others to provide – found those services were at core of respondent's business – respondent delivered core services to clients through applicant – further found applicant's remuneration determined by respondent – applicant required to submit timesheets and was constrained in relation to hours of work – found contractual arrangements, taken as a whole, left little scope for entrepreneurship on part of applicant – held applicant did not operate independent business but was integrated into respondent's business akin to employee – whilst not determinative, observed this was relevant indicator of employment relationship – level of control considered – found applicant had no contractual right to determine services she would provide – further noted applicant had little capacity to refuse work as Agreement required set availability for 6 months from date of agreement and 2 weeks' notice of any change thereafter – held respondent had significant control over

when work would be done – Commission distinguished *Personnel Contracting* as here respondent was not labour hire agency but instead in business of delivering care services – contractual arrangements reserved to respondent right to determine services applicant would provide and how they would be provided – determination of whether person an employee or independent contractor is question of law – held contractual provisions supportive of conclusion relationship between parties was of employer and employee – jurisdictional objection dismissed.

C2023/6640 [2024] FWC 289
Roberts DP Sydney 5 February 2024

Lobo v Multicultural Futures Inc

TERMINATION OF EMPLOYMENT – national system employer – ss.14, 394 Fair Work Act 2009 – application for unfair dismissal remedy – respondent raised jurisdictional objection – suggested it was not a national system employer for purposes of s.14 – issue as to whether respondent is a trading or financial corporation for the purposes of being a constitutional corporation – applicant submitted respondent generated revenue for goods or services and therefore was national system employer – operations were commercial in nature [*Hillman*] – employment contract referenced *Social, Community, Home Care and Disability Services Award 2010* and Fair Work Regulations – financial statements emphasised commercial intentions of respondent – respondent submitted it was a not-for-profit – trading not a substantial or predominant activity [*Lawrence*] – majority revenue from government funding – no engagement in financial activities [*Ku-Ring-Gai Co-Operative Building Society*] – applicant's submissions rejected – observed fact respondent operated bank account or accounts and collected GST did not make respondent a trading corporation – commonplace for service providers to have some overhead costs – whilst references made to national system instruments, a national system employer must be a trading corporation – instrumental references not conclusive to respondent's operations – observed while it was unclear why respondent referred to national system instruments in employment contract those references did not change fundamental nature of respondent – funding arrangements considered – respondent does not profit from funding arrangements – purpose is provision of services, not to generate income [*Pasalskyj*] – noted 98.8% of respondent's income for last completed financial year provided by government funding for programs – observed even if remaining 1.2% was from trading activities this would not be sufficient to consider respondent a trading corporation – Commission concluded respondent was not a trading corporation – respondent is not a national system employer – consequently applicant not national system employee – Commission does not have jurisdiction to deal with applicant's unfair dismissal claim – application dismissed.

U2023/10151 [2024] FWC 377
O'Keeffe DP Perth 12 February 2024

Ashburner v St Marys Rugby League Club Ltd

TERMINATION OF EMPLOYMENT – valid reason – process – ss.394, 384 Fair Work Act 2009 – applicant formally commenced on 27 April 2022 – applicant dismissed on 21 June 2023 – applicant sought unfair dismissal remedy – applicant submitted no valid reason for dismissal (s.387(a)), not notified of valid reason (s.387(b)) and not provided an opportunity to respond (s.387(c)) – whether valid reason considered – out of hours conduct may constitute a valid reason for dismissal if it is likely to cause serious damage to the relationship between the employer and employee, the conduct damages the employer's interests or the conduct is incompatible with the employee's duty as an employee [*Bobrenitsky*] – applicant attended colleague's birthday party – party attended by several of respondent's employees – function held away from respondent's premises – applicant was not conducting work functions – applicant made comments towards work colleague – comments included sexual insults

regarding another colleague – Commission not satisfied there was a sufficient connection between the comments and the employment – the comments did not become public knowledge and did not damage the respondent's reputation – the comments did not effect the respondent's interests – Commission satisfied there were valid reasons on other grounds – applicant's conduct represented pattern of behaviour that was directed at a female colleague, and was likely to offend, annoy or cause hurt – applicant continued with pattern of behaviour following apology to respondent's staff – Commission noted workers are entitled to expect, and are expected to demonstrate, basic levels of appropriate behaviour and conduct in all workplaces – termination process considered – Commission not satisfied that applicant was notified of the valid reasons (s.387(b)) – respondent sent letters on 30 May 2023 and 15 June 2023, regarding conduct – applicant attended meetings with respondent's representatives on 1 June and 15 June 2023, regarding conduct – Commission not satisfied that the letters, or meetings, specifically referred to the conduct being investigated – Commission found that the letters only contained broad statements about the conduct – Commission ultimately found that the applicant was not notified of the reason for his dismissal in explicit, plain and clear terms – Commission held applicant not provided with an opportunity to respond to allegations (s.387(c)) – applicant not advised employment was at risk – respondent did not clearly ask for a response in relation to any alleged conduct that constituted a valid reason – Commission held dismissal harsh, unjust and/or unreasonable – Commission not ready to conclude on remedy – remedy to be considered separately.

U2023/6215 [2024] FWC 246
Grayson DP Sydney 30 January 2024

Peters v Drewmaster P/L

TERMINATION OF EMPLOYMENT – merit – remedy – ss.387, 392, 394 Fair Work Act 2009 – applicant employed by respondent as electrician – applicant dismissed around the same time as 125 employees – termination letter alleged applicant did not intend on working required site hours, referred to allegations of theft and dishonesty – application for unfair dismissal remedy – applicant sought financial compensation and compensation for emotional distress due to wrongful accusations – applicant submitted that timesheet app was technically flawed – respondent submitted that applicant was not unfairly dismissed, that applicant was owed no compensation as he failed to provide evidence of employment earnings post-dismissal – respondent relied on s.392(4), under which the Commission must not compensate for shock, distress or humiliation as a result of dismissal – submitted further that applicant was invited to reapply for position, that applicant would easily find alternative employment as an electrician, that dismissal resulted from emergency situation with widespread theft, fraud and destruction by workforce and that applicant was paid all entitlements and that no compensation was owed – in reply submissions applicant submitted there was no evidence of an emergency situation – submitted caring responsibilities as single parent made full-time employment difficult, that he could secure only casual employment on reduced hours without leave entitlements – applicant noted he did not receive final payslip until almost 3 months after termination – Commission considered whether dismissal was harsh – found no evidence that applicant had refused a direction – Commission rejected respondent's submission that email sent to applicant presented opportunity to reapply for position – noted applicant experienced problems in relation to timesheet app – noted respondent provided no evidence in relation to functionality of timesheet app – further noted applicant was not counselled, disciplined or warned in relation to timesheet irregularities – Commission rejected respondent's submission that dismissal resulted from an emergency – noted that applicant was never accused of misconduct, theft or property destruction – Commission satisfied that respondent did not have a valid reason for dismissal – found that applicant was notified of termination in termination letter and was not given an opportunity to respond to allegations – Commission satisfied that termination was a sham process – found that applicant's termination was unjust [*Crozier*] – found applicant was denied procedural fairness – Commission satisfied

that termination was harsh and unjust – reinstatement inappropriate given difficulty of re-establishing trust and confidence to re-create employment relationship – Commission satisfied applicant would have been employed for a further 12 months – casual loading deducted on the basis that if Applicant remained in employment, he would have accrued leave entitlements – 20% deducted due to further contingencies – further 3 weeks deducted for paid notice period – respondent ordered to pay $39,917.68 less taxation.

U2023/7336		[2024] FWC 282
Riordan C	Sydney	2 February 2024

Sayce v The Truste for Mag Unit Trust t/a Mag Apprenticeships

GENERAL PROTECTIONS – dismissal dispute – resignation – s.365 Fair Work Act 2009 – applicant sought general protections involving dismissal remedy – jurisdictional objection by respondent – whether applicant 'dismissed' within the meaning of the FW Act – applicant submitted resignation was forced due to conduct, or a course of conducted engaged in by the respondent – resignation may be forced where 'the employer engaged in the conduct with the intention of bringing the employment to an end or whether termination of the employment was the probably (sic) result of the employer's conduct such that the employee had no effective or real choice but to resign' [*Tavassoli*] – Commission must also consider the circumstances giving rise to the termination, the seriousness of the issues involved and the conduct of the employer and employee – applicant employed in the roles of managing director and subsequently national operations manager – applicant advised employer of pregnancy in May 2023 – applicant resigned by email on 31 August 2023 – respondent accepted resignation email on the same day – applicant submitted she was forced to resign based on maternity leave arrangements made by employer, poor treatment from respondent, exclusion from company meeting in July 2023 and refusal of working from home request – maternity leave arrangements considered – employer found replacement 'effective immediately' after applicant advised of pregnancy – applicants still had three months before she would take maternity leave – the respondent's business was a small operation – respondent provided a three month handover plan – Commission found that the respondent's decision was likely attributable by the respondent's desire to protect their business and replace the role as soon as possible – Commission found the handover plan was measured and plausible – poor treatment considered – heated conversation between applicant and respondent on 21 August 2023 – applicant's duties reassigned following notification of pregnancy – Commission found that there was no evidence of a pattern of heated conversations – Commission found poor treatment could not be attributed to forced resignation – exclusion from meeting considered – respondent scheduled a meeting for July 2023 – applicant not invited – attendees were employees employed as consultants – applicant was employed in administrative role – applicant was invited, and attended, a separate meeting March 2023, which fitted her administrative role – Commission found respondent's decision to exclude applicant from July 2023 meeting was not sufficient for there to be no effective or real choice on the part of the applicant but to resign – working from home request considered – applicant sought to work from home one day a week due to pregnancy – respondent refused the request – respondent had working from home policies, which were communicated to applicant on 27 July and 1 August 2023 – Commission found the refusal was consistent with respondent's business circumstances, methods of work and policies – refusal unable to be characterised as being intended to bring the employment relationship to an end or having that probable result – Commission not satisfied that resignation was forced – Commission held applicant not 'dismissed' – application dismissed.

C2023/7220		[2024] FWC 366
Wilson C	Melbourne	22 February 2024

Feldschuh v Strong Room Technology P/L

GENERAL PROTECTIONS – jurisdiction – director – s.365 Fair Work Act 2009 – applicant lodged a general protections application against respondent alleging dismissal on 15 September 2023 – respondent objected, asserting applicant had not been dismissed as he was a director rather than employee of the company – Commission required to determine jurisdictional objection before s.368 powers can be exercised [*Coles v Milford*] – in December 2019, applicant became a director of the respondent and began making a valuable contribution to growth of the company – in December 2020 company Board formalised his appointment by entering into written non-executive director agreement signed by both parties – applicant successfully discharged duties – in August 2020, company shareholders agreed to twelve month extension of appointment – on 12 September 2023, directors of the company resolved he be removed as director – applicant's relationship with company officially ended on 15 September 2023 – over the course of the engagement, applicant's pay had increased from $120,000 per annum to $200,000 per annum – key question for the Commission was whether applicant was an employee within the meaning of the Act – whether employee at common law according to relevant authorities *Personnel Contracting* and *Jamsek* considered – respondent's principal submission was that written agreement did not change and constituted the "entire agreement between the parties" – applicant argued he was both a director and employee from the commencement of relationship and that terms of employment were not included in the written agreement – Commission found no such employment relationship existed and applicant did not provide any evidence to the contrary to suggest the written agreement did not accurately record the duties to be engaged in for the duration of his time as a director – found agreement was not anything more than a relationship between a director and a company – no compelling evidence that the applicant was required or expected to perform work other than as set out in the written agreement – applicant accepted in cross examination he was not required to attend meetings other than board meetings and that KPIs were likely requested by him – labels on payslips as "employee" were only used inaccurately as a result of inexperience on the company's behalf – Commission not satisfied agreement extended in August 2021 was anything other than the written agreement made the previous year but for an increase in remuneration – Commission concluded details of written agreement strongly pointed to conclusion that the only agreement between parties was for performance of duties as a director – agreement specifically referred to "appointment" with no reference to "employment" or "engagement" – described the duties of director but provided no right of control for the respondent to direct how duties were to be discharge – referred to payment in "shares" or "options" not "wages" or "salary" – explicitly stated "the agreement constitutes the entire agreement and understanding between the parties with respect of the subject matter" – Commission was not satisfied there were any substantive changes to agreed terms between the parties – concluded applicant was not an employee within the meaning of s.335 of the Act and therefore a dismissal did not happen pursuant to s.386 – Commission lacked the jurisdiction to allow the application to proceed – application dismissed.

C2023/6110 [2024] FWC 216
Connolly C Melbourne 25 January 2024

Schoof v Hitachi Rail STS Australia P/L t/a Hitachi Rail STS Australia P/L

ENTERPRISE AGREEMENTS – dispute about matter arising under agreement – jurisdiction – s.739 Fair Work Act 2009 – Commission's power to deal with disputes in accordance with a dispute settlement procedure – applicant employed under 2019 and then 2022 enterprise agreement (EA) – applicant raised dispute pursuant to both 2019 and 2022 EA – Commission considered whether applicant could raise dispute under 2019 EA as it had been replaced with 2022 EA – where EA has ceased to operate by the time applicant seeks to enliven the Commission's power to arbitrate, the Commission does not have the power to arbitrate [*Simplot*, *Battye*] – Commission

may arbitrate a dispute only where the parties have agreed Commission may do so in accordance with dispute resolution term in EA [*Battye*] – when language of EA dispute resolution term provides for bifurcation of conciliation and arbitration, these powers are enlivened separately [*Battye*] – for arbitral power to be enlivened, parties must have reached agreement in accordance with the dispute resolution term before the relevant EA ceases to operate [*Battye*] – Commission considered clause in 2019 EA that set out steps for Commission to be authorised to conciliate and arbitrate – found words suggested a bifurcation of the Commission's power to deal with the dispute by either conciliation or arbitration – found evidence supported that power to conciliate, but not power to arbitrate, was engaged before the 2019 EA was replaced by the 2022 EA – Commission concluded it did not have jurisdiction to deal with dispute under 2019 EA – application to deal with dispute under 2019 EA dismissed, application under 2022 EA programmed for further determination.

C2023/4644 [2024] FWC 233
Lim C Perth 31 January 2024

Heard v BHP Olympic Dam Corporation P/L

TERMINATION OF EMPLOYMENT – extension of time – domestic violence – s.394 Fair Work Act 2009 – application for unfair dismissal filed 49 days from date of dismissal; 28 days late – applicant dismissed after respondent's investigation substantiated a breach of respondent's code of conduct – applicant had behaved inappropriately towards supervisor, in an "unprofessional, offensive, insulting and malicious manner" – hearing conducted by Commission to determine extension of time, in which only applicant led evidence – respondent withdrew initial out of time objection and did not challenge applicant's evidence – Commission drew no negative inference given nature of evidence – applicant claimed mitigating circumstances influenced behaviour – applicant claimed an abusive relationship with former partner affected her mental health – decline in mental health and fatigue from night shifts was noted to supervisor in denied request to leave site – applicant submitted that language used in request was out of character, with no previous behavioural issues at work – applicant gave evidence on extent of former partner's controlling and aggressive behaviour, escalating from early on in relationship – applicant resided in company housing and was given 28 days to vacate property – applicant then spent several days at former partner's house, and abusive behaviour lessened – however once applicant, post-dismissal, engaged in mental health courses offered by respondent, her former partner became enraged, his behaviour fluctuating from excessive display of affection to abusive and restrictive – Commission heard that during this time, applicant could not think straight, felt "frozen in fear" – applicant then drove to Adelaide for support from a friend – former partner arrived several days later, was argumentative and verbally abusive to an extent not seen before – he coerced applicant into his car, where she was kept for 3 hours with no phone or water, receiving continual abuse – 5 days after this incident, applicant moved to Queensland, leaving company housing and former partner – abuse continued to affect applicant, causing anxiety, insomnia and nightmares – application made after improvements in mental state and support from family in Queensland, who she had previously been unable to see – Commission considered whether these were exceptional circumstances – Commission noted that mental health, relocation stress, and lack of friend and family support were all factors in delay advanced by applicant, but ongoing abuse and its effects were the most significant reasons – Commission found that abuse escalated after dismissal and applicant would have been "focused on escaping the abuse," and drew comparison to *Campagnolo*, where "impact and ramifications of domestic violence [impacted on] capacity to complete and lodge application" – in considering discretion to extend application time, Commission noted preliminary view that applicant's case arguable and not without merit – also considered the application of consistent principles to ensure fairness between applicant and other persons in similar position [*Perry*] – considering s.394(3), Commission ultimately persuaded that abuse and its effects were exceptional and credible in combination with merits of applicant's claim and lack of objection from respondent – exercised discretion to extend time for filing of

application.

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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 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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