



The Hon Tony Burke MP
Minister for Employment and Workplace Relations
Minister for the Arts
Leader of the House

Reference: MS23-000485

The Hon Justice Adam Hatcher
President
Fair Work Commission
Level 11, Terrace Tower
80 William Street
EAST SYDNEY NSW 2011

By email: chambers.hatcher.j@fwc.gov.au

Dear President

A handwritten signature in blue ink that reads 'Adam'.

I write to express the Australian Government's interest in the Fair Work Commission initiating a targeted review of modern awards. The desirability of a review and possible areas for focus arise from outcomes of the Jobs and Skills Summit, changes to the objects, objectives and gender equality provisions of the *Fair Work Act 2009* made by the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022*, workplace recommendations of the National Cultural Policy, *Revive*, and the Final Report of the Senate Select Committee on Work and Care.

In making this request, I am mindful of the Commission's workload, the considerable work undertaken in previous reviews, the demands that may be placed on stakeholders, and the desirability for the work to be completed in a timely, resource-effective, and targeted manner. To support a possible review, the Government allocated \$0.6 million to the Commission in the 2023–24 Budget.

An outcome of the Jobs and Skills Summit was to consider possible improvements to the National Employment Standards and modern awards. Interested parties, including Senators, Members of Parliament, unions, employers, and other groups have all advocated for a review of modern awards. Consistent with the Commission's usual approach, it would be important that such a review be transparent, informed by consultation and give stakeholders a fair opportunity to express their views. I anticipate that the canvassing of issues would need to be underpinned by targeted research and reports and would encompass work the Commission already has underway including through Expert Panels. I note that the ability for parties to apply to vary awards is fundamental to the award system and I expect this work could provide an evidence base to inform future applications from interested parties or own-motion processes if the Commission considers it appropriate.

From the Government's perspective, there are 4 key priorities for a review of modern awards. These are set out below. Consistent with the Government's commitment to improving wages and conditions, it is the Government's view that outcomes should not result in any reduction in worker entitlements.

I also consider it critically important that the modern award system be easy to understand, stable, and sustainable. I encourage you to consider using the review to identify what parties believe could be done to make awards easier to use. To complement any work performed through a review, the Department of Employment and Workplace Relations is undertaking a range of scoping and research work on ways that regulatory technology could be used to enhance the usability of the workplace relations system, including modern awards.

The first priority is to ensure that modern award wages are appropriately set having regard to the amended objects of the *Fair Work Act 2009* regarding gender equality and other amendments aimed at eliminating gender-based undervaluation of work. I recognise the work already underway within the Commission, as outlined in the Annual Wage Review Decision 2022–23 and your President’s Statement of 2 August 2023, and consider that work within the context of this existing project could be an appropriate avenue to address this proposal.

Secondly, I ask the Commission to consider whether the terms of awards appropriately reflect the new object of the *Fair Work Act 2009* and modern awards objective regarding job security and the need to improve access to secure work across the economy. Provisions around rostering, guaranteed shifts, and the interaction of the permanent, part-time, and casual classifications within an award are examples of award terms that could be considered. A research programme to analyse relevant award provisions may be a productive way to further this proposal. As part of this process, I also ask that the Commission review standard award clauses with general application across the award safety net, to assess their continuing suitability in light of the updated modern awards objective.

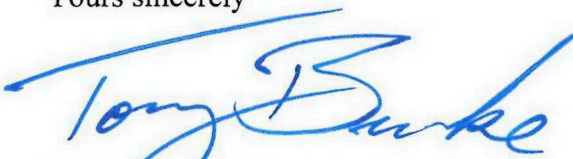
Thirdly, another outcome of the Jobs and Skills Summit was agreement that a consultation and research process considering the impact of workplace relations settings (such as rostering arrangements) on work and care, including early childhood education and care, be initiated. I ask the Commission to consider commencing this consultation and research process as a part of the review, having regard to relevant findings and recommendations of the Final Report of the Senate Select Committee on Work and Care.

Finally, in January 2023, the Government released the National Cultural Policy, which includes an action to consider modern award coverage and minimum standards for the arts and culture sector. As a first step, I ask the Commission to investigate existing award coverage and minimum standards in the arts and culture sector, including potential coverage gaps, as part of this review.

The Government would be able to support the Commission by providing materials to assist the Commission’s research and evaluation processes, including economic data and evidence. I invite the Commission to consider publishing a report with review outcomes to formally conclude the review.

I would be grateful if you consider this request in the exercise of the Commission’s powers.

Yours sincerely



TONY BURKE

12 / 9 / 2023