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23 June 2021

The Hon. Justice IJK Ross
Fair Work Commission
11 Exhibition Street
Melbourne VIC 3000

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

Dear Justice Ross,

Re. AM2021/54 Casual Terms Award Review 2021 – Commission’s Provisional Views

We refer to the above matter and the Statement and Directions¹ (**Statement**) issued by the Fair Work Commission (**Commission**) on 22 June 2021.

Paragraph [4] of the Statement requires parties to file a short note regarding which of the provisional views expressed by the Commission in Attachment B to its Statement² of 21 June 2021 (**Attachment B**) are contested.

We write to advise that the Australian Industry Group contests the following provisional views:

- (a) In respect of question 10, the Commission’s provisional view that:

‘Provisions such as clause 11.4(d) of the Manufacturing Award, which require employers to inform casual employees on their engagement ‘of the likely number of hours they will be required to perform’, are not directly inconsistent with s.15A(1). Such provisions do not necessarily require a ‘firm advance commitment to continuing and indefinite work according to an agreed pattern of work for the person’ referred to in s.15A(1). ...

Rather than removing such provisions altogether, the appropriate variation to comply with clause 48 of Schedule 1 is to modify the award to make it clear that the employer need only provide, if practicable, a non-binding estimate of the hours likely to be worked.’³

- (b) In respect of question 27, the Commission’s provisional view that:

‘Redrafting clause 11.5 of the Manufacturing Award so that it applies the residual right of conversion under the Act on the basis that an employee is eligible to make a request if the employee has been employed by the employer for a period of at least 6 months beginning the day the employment started, would make the award consistent and operate effectively with the Act.’⁴

¹ *Casual Terms Award Review 2021* [2021] FWCFB 3590.

² *Casual Terms Award Review 2021* [2021] FWCFB 3555.

³ Attachment B at pages 79 – 80.

⁴ Attachment B at page 85.



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Yours sincerely,

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