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Sent: Thursday, 18 August 2022 4:25 PM
To: AMOD <AMOD@fwc.gov.au>
Cc: Manufacturing Division Industrial <industrial@cfmeumd.org>
Subject: C2019/5259 - s157 - Review of certain C14 rates in modern awards - referral to Full Bench

Dear AMod Team,

C2019/5259 - s157 - Review of certain C14 rates in modern awards - referral to Full Bench

We refer to the Statement issued by Justice Ross, President on 27 July 2022 [2022] FWC 1989 and Directions issued on 29 July 2022.

Pursuant to Direction [1] please find attached an Outline of Position of the CFMMEU-Manufacturing Division.

Kind Regards

Vivienne Wiles
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Manufacturing Division
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FAIR WORK COMMISSION

S.157 – FWC may vary etc. modern awards if necessary to achieve the modern award objective

(C2019/5259)

Review of certain C14 rates in modern awards

**OUTLINE OF POSTION
CONSTRUCTION, FORESTRY, MARITIME, MINING & ENERGY UNION
(MANUFACTURING DIVISION)**

**In response to
Statement [2022] FWC 1989 (27 July 2022)**

(18 August 2022)

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BACKGROUND

1. On 27 July 2022, a Statement¹ was issued by Justice Ross (*'July 2022 Statement'*) regarding the review of modern awards which have classification rates at the C14 level which are either not transitional rates or where the transition period is not specified, noting that the *'C14 rate is equivalent to the National Minimum Wage (NMW) rate.'*²
2. In the *July 2022 Statement*, Justice Ross decided that the C14 rates in 10 modern awards³ will be reviewed on the Commission's own motion.⁴
3. In the 10 identified modern awards, the CFMMEU-Manufacturing Division ("CFMMEU-MD") has an interest in the *Dry Cleaning and Laundry Industry Award 2020* ("DC&LI Award 2020").
4. The matter (C2019/5259) has been listed for Conference (By Video – Microsoft Teams) before Commissioner Hampton at 10:30am (AEST), Tuesday, 23 August 2022.
5. Pursuant to Directions issued,⁵ the CFMMEU-MD provides this outline of position with respect to the DC&LI Award.

DC&LI Award 2020

6. The CFMMEU–MD supports the FWC reviewing the DC&LI Award in relation to the relevant equivalent C14/NMW rate.
7. As a matter of general principle, the CFMMEU – MD submits that modern awards which contain a C14 classification with no outer limit of operation (i.e., no transitional period

¹ [2022] FWC 1989

² *Ibid*, at [1]

³ *Ibid*, at [20]

⁴ *Ibid*, at [10]

⁵ Directions issued 29 July 2022

or clear means to progress to a higher classification), do not represent a fair and relevant safety net for those employees.

8. For employees classified at such a classification, they may be effectively 'frozen' indefinitely at a wage rate equivalent to the NMW, with no realistic prospect of 'stepping' up to a higher skill level within the overall scheme of classifications in the particular award.
9. In relation to the dry-cleaning industry, the DC&LI Award contains the following classifications:
 - (B.1) *Dry cleaning employee Level 1*
 - (B.2) *Dry cleaning employee Level 2*
 - (B.3) *Dry cleaning employee Level 3*
 - (B.4) *Dry cleaning employee Level 4*
 - (B.5) *Dry cleaning employee Level 5* [i.e., includes tradesperson dry cleaner classification]

10. The relevant C14 rate in the DC&LI Award is *Dry cleaning employee Level 1* (clause B.1) which provides as follows:

B.1 Dry cleaning employee Level 1

An employee who is below the level of a tradesperson dry cleaner and is not within Levels 2 to 4.

11. As is evident from the wording above, the classification *Dry cleaning employee Level 1* is minimalist in its description, potentially ambiguous, and appears in effect to capture all dry-cleaning industry employees who do not 'fit' within any of the higher

classifications of *Dry Cleaning Employee Level 2*, *Dry Cleaning Employee Level 3* or *Dry Cleaning Employee Level 4*.

12. We submit that for such a classification to potentially apply to an employee indefinitely (at the C14/NMW equivalent rate) it results in a failure to provide a fair and relevant safety net for the dry-cleaning industry.

13. For the above reasons, we contend it is appropriate for the FWC to review the provision in the DC&LI Award.

Filed on behalf of:

**Construction Forestry Maritime Mining and Energy Union
(Manufacturing Division)**

Vivienne Wiles

Senior National Industrial Officer and Co-ordinator

18 August 2022