



# STATEMENT

*Fair Work Act 2009*

s 157—FWC may vary etc. modern awards if necessary to achieve modern awards objective

## **Variation on the Commission’s own initiative — Clerks—Private Sector**

### ***Award 2020***

(AM2024/34)

JUSTICE HATCHER, PRESIDENT  
DEPUTY PRESIDENT O’NEILL  
COMMISSIONER MCKINNON

SYDNEY, 2 DECEMBER 2024

*Proposed variation on the Commission’s own initiative – working from home – Clerks—Private Sector Award 2020 – scope of research to be conducted – data profile – employer and employee survey.*

[1] On 13 September 2024, the presiding member held an initial hearing in this matter, during which parties identified that it would be of benefit if the Commission conducted some research as to relevant matters. In a statement published on 24 October 2024 (October 2024 Statement),<sup>1</sup> we identified four options for this research which were proposed by the Commission’s Labour Standards Support Branch. The options presented were:

- A data profile for the Clerks Award (Option 1);
- An adapted survey of employers covered by the Clerks Award (Option 2);
- Qualitative research concerning employee preferences (Option 3); and
- A survey focusing on the list of identified issues (Option 4).

[2] We flagged in the October 2024 Statement that, although the research will ultimately be determined by the Commission, parties could raise additional research options that they considered would be appropriate and practicable for consideration.<sup>2</sup>

[3] On 25 November 2024, Commissioner McKinnon conducted a conference with parties to ascertain whether a consensus could be reached as to any of the identified research options.

[4] In attendance were representatives from the Australian Industry Group (Ai Group), the Australian Chamber of Commerce and Industry, Australian Business Industrial (ABI), the Australian Council of Trade Unions and the Australian Services Union.

[5] There was general consensus that Option 1 and Option 2 would be of benefit. Parties noted that Option 1 would help to establish the parameters of modern award coverage and key characteristics of employees employed under the award. ABI proposed the capture of additional

data in relation to above-minimum rates of pay. Commission staff will investigate whether this information can be included. Parties were also supportive of Option 2 (an employer survey).

[6] In relation to Option 3, parties generally expressed a preference for the collection of quantitative rather than qualitative data, noting they will have opportunities to submit witness statements and other evidence later in the proceedings to bring a qualitative dimension to the matter. The parties also supported a quantitative survey of employees, similar to the proposed employer survey in Option 2.

[7] The parties sought an opportunity to provide feedback on the final form of questions of any survey to be conducted. The Ai Group suggested that there may be value in parties advancing their positions and specific variations sought as a first step to inform the survey design. The other parties favoured the surveys being expressed broadly and being conducted prior to the filing of materials.

[8] One of the objectives of the proposed employer survey is to collect similar data to the 2020 employer survey for the *Clerks—Private Sector Award 2020* concerning working from home conducted during the COVID-19 pandemic. This will allow the data to be compared. It is likely therefore that questions in the employer survey will be similar to those previously asked in the 2020 employer survey. On balance, we agree that both employer and employee surveys should be conducted, and each should explore a broad snapshot of issues as well as allowing comparison with data previously collected in 2020, rather than being informed only by issues raised by the parties.

[9] Commission staff will now identify (a) supplier(s) with appropriate expertise to conduct the employer and employee surveys.

[10] Once this process has been finalised, parties will be invited to comment on the draft survey questions designed by the contracted supplier(s). As per the Commission's normal practice when commissioning research, the final form and scope of questions will be informed by the expertise of the contracted supplier(s).



PRESIDENT

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<sup>1</sup> [\[2024\] FWCFB 407](#).

<sup>2</sup> Ibid [13].