

[2021] FWCFB 6019

The attached document replaces the document previously issued with the above code on 7 October 2021.

The word 'not' in paragraph [3] after the word 'relation' has been deleted and replaced with the word 'to'.

The second full stop at the end of paragraph [3] has been deleted.

Modern Awards, Economics and Research Section

On behalf of the Associate to Vice President Catanzariti

Dated 12 October 2021



DECISION

Fair Work Act
2009

s.156—4 yearly review of modern awards

4 yearly review of modern awards — *Hair and Beauty Industry Award 2010* (AM2017/40)

Hair and Beauty

VICE PRESIDENT CATANZARITI
DEPUTY PRESIDENT ASBURY
COMMISSIONER LEE

SYDNEY, 7 OCTOBER 2021

4 yearly review of modern awards – Hair and Beauty Industry Award 2010 – award specific penalty rates claims.

Introduction and background

[1] On 7 January 2020 we issued a decision (*January 2020 decision*)¹ regarding a claim to vary the *Hair and Beauty Industry Award 2010* (the Hair and Beauty Award). We will not repeat the findings of that decision here.

[2] Relevantly, as part of the *January 2020 decision* we noted that the Hair and Beauty Award provisions are not consistent with the views expressed by the Full Bench in the *Penalty rates decision* with regards to casual loadings and weekend penalty rates but said that there was insufficient material before us to establish a case for change.² We invited the Australian Workers' Union (the AWU), the Shop, Distributive and Allied Employees Association (the SDA) and Hair and Beauty Australia (HABA) to provide notice as to whether they wished to provide further materials in relation to the Saturday and Sunday penalty rates applicable to casual employees covered by the Hair and Beauty Award.

[3] In response to the *January 2020 Decision*, the AWU and the SDA provided notice that they wished to provide further materials in relation to the payment of the casual loading and the weekend penalty rates for casual employees. A number of materials, including draft determinations to vary the Hair and Beauty Award were received from the parties. Subsequently, on 23 July 2021, the AWU filed an amended draft determination setting out an agreed position between the parties with regards to the proposed variations.

¹ [2020] FWCFB 39

² [2017] FWCFB 1001 at [891] and [897]

[4] On 7 September 2021, we issued a decision³ (the *September 2021 decision*) which, *inter alia*, set out the background of the matter and stated that the proposed variations in amended draft determination were necessary to achieve the modern awards objective.

[5] As the draft determination prepared by the parties was not in the usual format adopted by the Commission we issued a revised draft determination with the *September 2021 decision* for parties' consideration. We invited the parties to provide comments within 14 days of the publication of the *September 2021 decision*.

[6] The AWU and HABA both confirmed they have no objection to the wording of the further draft determination.⁴ The SDA did not provide any further comments.

[7] We will vary the Hair and Beauty Award as per the revised draft determination. A final determination will be issued with this decision accordingly.



VICE PRESIDENT

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³ [2021] FWCFB 5577.

⁴ Correspondence from AWU and HABA, 21 September 2021.