

BEFORE THE FAIR WORK COMMISSION

FAIR WORK ACT 2009

Four Yearly Review of Modern Awards – s.156

Coal Mining Industry Employer Group

Applicant

The Association of Professional Engineers, Scientists and Managers, Australia – Collieries' Staff Division

Australian Manufacturing Workers' Union

Construction, Forestry, Mining and Energy Union – Mining and Energy Division

Respondents

AM2014/190

RESPONDENT UNIONS' OUTLINE OF SUBMISSIONS

1. These submissions are made on behalf of the Association of Professional Engineers, Scientists and Managers, Australia – Collieries' Staff Division, the Australian Manufacturing Workers' Union, and the Construction, Forestry, Mining and Energy Union – Mining and Energy Division (collectively 'the Respondent Unions') in response to Justice Ross' statement of 18 April 2017 concerning matters where former Vice President Watson was the presiding Member and had not been completed prior to his resignation.
2. The Respondent Unions are respondents in proceedings AM2014/190 – Transitional Provisions – Accident Pay ('the accident pay matter').
3. The Respondent Unions are of the understanding that the effective applicant in that matter, the Coal Mining Industry Employer Group ('CMIEG'), seeks to press their members' claim.
4. On the basis that CMIEG seeks to press the claim it follows that the Full Bench will need to be reconstituted under section 622 of the *Fair Work Act 2009* (Cth).
5. It is understood that CMIEG would prefer that the current hearing dates be utilised, but if a Full Bench cannot be reconstituted for those hearing dates then new hearing dates be set that are not significantly later than the current hearing dates.

6. The Respondent Unions note that counsel for APESMA and the CFMEU is no longer available on the dates currently set for hearing. That arose in circumstances where the parties were told that the matter could not proceed before the existing Full Bench and that the dates for hearing would need to be determined once a new Full Bench was constituted. The Respondent Unions would be significantly prejudiced if the matter were to proceed on dates when their counsel is not available, given the work that has been done to date.
7. The Respondent Unions have no objection to new hearing dates being set that are not significantly later than the current hearing dates.
8. At present, the Respondent Unions are available for hearing at any time convenient to a new Full Bench in the following periods:
 - a. 1,4, 7 to 11 August 2017;
 - b. 6 to 29 September 2017;
 - c. 16 October to 31 October 2017;
 - d. 1 to 17, and 28 to 30 November; and
 - e. 1 to 15 December 2017.
9. The Respondent Unions would be content for the matter be relisted on an urgent basis so that hearing dates can be set.

**The Association of Professional Engineers, Scientists and Managers, Australia –
Collieries' Staff Division**

Australian Manufacturing Workers' Union

Construction, Forestry, Mining and Energy Union – Mining and Energy Division

5 May 2017