



TRANSCRIPT OF PROCEEDINGS  
*Fair Work Act 2009*

**JUSTICE HATCHER, PRESIDENT**

**AM2024/24**

**s.158 - Application to vary or revoke a modern award**

**Application by Shop, Distributive and Allied Employees Association (006N)  
(AM2024/24)**

**Fast Food Industry Award 2020**

**General Retail Industry Award 2020**

**Pharmacy Industry Award 2020**

**Sydney**

**9.00 AM, FRIDAY, 28 JUNE 2024**

PN1

JUSTICE HATCHER: I will take the appearances. There seems to be an echo. Can you turn your microphone off all of you if you're not speaking. Mr Friend and Mr Tierney, you appear for the applicant, the SDA?

PN2

MR W FRIEND: That's correct, your Honour.

PN3

JUSTICE HATCHER: Thank you. Mr Booth, you appear for the Newsagents Association of NSW and ACT?

PN4

MR I BOOTH: Yes, your Honour.

PN5

JUSTICE HATCHER: Ms Wellard and Mr Harris, you appear for The Pharmacy Guild?

PN6

MS S WELLARD: Yes, your Honour.

PN7

JUSTICE HATCHER: Mr Cullinan, you appear for Retail and Fast Food Workers Union Incorporated?

PN8

MR J CULLINAN: Yes, your Honour.

PN9

JUSTICE HATCHER: Ms Bhatt and Ms Beasley, you appear for The Australian Industry Group?

PN10

MS R BHATT: Yes, your Honour.

PN11

JUSTICE HATCHER: Mr Riddington-Flynn, you appear for Professionals Australia?

PN12

MR R RIDDINGTON-FLYNN: Yes, your Honour.

PN13

JUSTICE HATCHER: Mr Arndt, you appear for Business NSW and Australian Business Industrial?

PN14

MR J ARNDT: Yes, your Honour.

PN15

JUSTICE HATCHER: Mr Morrish, you appear for the Australian Chamber of Commerce and Industry?

PN16

MR J MORRISH: Yes, your Honour.

PN17

JUSTICE HATCHER: Mr Stirling, you appear for Master Grocers Australia?

PN18

MR M STIRLING: Yes, your Honour.

PN19

JUSTICE HATCHER: Ms Morris, you appear for the Australian Retailers Association?

PN20

MS L MORRIS: Yes, your Honour.

PN21

JUSTICE HATCHER: Ms Carroll, you appear for the National Retail Association?

PN22

MS L CARROLL: Yes, your Honour.

PN23

JUSTICE HATCHER: And, Ms De-Hayr, you appear for an individual employer, Fish'n I think it is.

PN24

MS K DE-HAYR: Yes, your Honour.

PN25

JUSTICE HATCHER: All right. Mr Friend, how do you wish to proceed with this matter?

PN26

MR FRIEND: Your Honour, obviously this is a matter which has got a very broad compass and will take quite some time to deal with. We would propose that in the first instance the SDA file its material. There's been quite a bit of work done in preparing that. There will be some material which goes to all three of the awards as the subject of the application. As your Honour would see the grounds of the application are virtually identical in respect of each award, which is why they have been put together.

PN27

We would propose that we file our material which will constitute probably 20 or so statements relevant to the GRIA of individuals, 20 or so relevant to Fast Food, and probably (audio malfunction) or so in respect to pharmacy, together with probably three experts. We propose doing that in the period of four months from today.

PN28

JUSTICE HATCHER: Four months?

PN29

MR FRIEND: Yes. And then - it's a matter for the Commission and the parties - we can program a response to now or at some time later.

PN30

JUSTICE HATCHER: All right. Unless you're inclined otherwise I would indicate that I think we should allow the applicant and any other parties supporting the application to file their material. The employers and other parties opposing it to put their material in reply, then have the matter brought back on for further directions. Is that the appropriate course?

PN31

MR FRIEND: We would support that, your Honour.

PN32

JUSTICE HATCHER: Yes, all right. If we gave those opposing the applicant an equivalent time let's see where that takes us. That takes us more or less to February next year, and I take it, Mr Friend, you wouldn't be opposed to those opposing the application being given equivalent time to what you have sought?

PN33

MR FRIEND: Absolutely not, your Honour, that will be fine.

PN34

JUSTICE HATCHER: All right. Does any party wish to be heard against the proposition that I should make directions that the applicant shall file its evidence and an outline of submissions with a period of approximately four months to do so, but those opposing the application be given an equivalent time period, and that the matter should then come back for directions?

PN35

MS BHATT: Your Honour, it's Ms Bhatt for Ai Group. We certainly don't have any opposition to that course of action, but can I just flag one matter, and that is that the four month period that would be provided to respondent parties will overlap with the Christmas and new year period. The Christmas period is exceptionally busy in the retail sector and we anticipate will materially impact the availability of at least some witnesses that we might seek to call.

PN36

I also foreshadow that it might overlap to some degree with leave arrangements of officers involved in this matter, and of course other significant proceedings that are listed before the Commission for hearing throughout all of December, namely the gender undervaluation proceedings in which we will be playing a significant role. So I just ask that liberty is granted to seek a variation to the directions in case that becomes necessary.

PN37

JUSTICE HATCHER: All right. That will be noted, although of course I assume those who oppose the application might simply sit on their hands until they see the SDA material, but I take that into account. Does any other party wish to be heard against the course I had proposed?

PN38

MS MAHER: Your Honour, Ms Maher from the ARA. As my learned friend has flagged from the Ai Group the ARA's position would be the same in that we would seek liberty to apply having regard to the peak Christmas trading period and those months, your Honour.

PN39

JUSTICE HATCHER: All right. Anything else? Does any other party wish to raise any other procedural matter at this time? No. All right. I thank everyone for their attendance. The parties can anticipate that I will issue directions to the effect indicated either later today or early next week, and the matter will proceed on that basis. Otherwise we now adjourn.

**ADJOURNED INDEFINITELY**

**[9.24 AM]**