

# Quarterly report

## Report to the Minister Oct-Dec 2016

### 2nd quarter 2016–17

The President of the Fair Work Commission is required under s.654 of the [Fair Work Act 2009](#) to provide certain information to the Minister for Employment.

This quarterly report is provided to the Minister in accordance with requirements detailed in Schedule 5.2 of the [Fair Work Regulations 2009](#) and posted to the Commission's website.

It covers the period 1 October 2016 to 31 December 2016.

Applications lodged and results recorded relate to the reporting period. Results are not confined to applications lodged in this period.

Item	Information required	Number
<b>1</b>	<b>Awards</b>	
1.1(a)	Determinations varying modern awards made under s.157	1
1.1(b)	Modern awards made under s.157	0
1.1(c)	Determinations revoking modern awards made under s.157	0
1.2(a)	Applications made under s.158 to vary or revoke a modern award under s.157	1
1.2(b)	Applications made under s.158 to make a modern award under s.157	0
1.3	Determinations made under s.161 to vary modern awards	0
<b>1A</b>	<b>Modern awards</b>	
1A.1	Determinations varying modern awards made under item 5 of Schedule 5, FW (TPCA) Act	0

<b>Item</b>	<b>Information required</b>	<b>Number</b>
1A.2	Determinations varying modern awards made under item 7 of Schedule 5, FW (TPCA) Act	0
1A.3	Applications for take-home pay orders made under item 9 of Schedule 5, FW (TPCA) Act	0
1A.4	Take-home pay orders made under item 9 of Schedule 5, FW (TPCA) Act	0
<b>1B</b>	<b>Modern enterprise awards</b>	
1B.1	Applications for modern enterprise awards made under item 4 of Schedule 6, FW (TPCA) Act	0
1B.2	Modern enterprise awards made under item 4 of Schedule 6, FW (TPCA) Act	1
1B.3	Applications for FWC to terminate enterprise instruments made under item 5 of Schedule 6, FW (TPCA) Act	0
1B.4	Terminations of enterprise instruments made under item 5 of Schedule 6, FW (TPCA) Act	0
1B.5	Variations of instruments made under item 9 of Schedule 6, FW (TPCA) Act	0
1B.6	Terminations of instruments made under item 9 of Schedule 6, FW (TPCA) Act <sup>1</sup>	1
1B.7	Applications for take-home pay orders made under item 12 of Schedule 6, FW (TPCA) Act	0
1B.8	Take-home pay orders made under item 12 of Schedule 6, FW (TPCA) Act	0
<b>2</b>	<b>Enterprise agreements</b>	
2.1	Applications for the approval of enterprise agreements made under s.185	1652
Additional Data*	<i>Applications for approval of a single-enterprise agreement*</i>	1575
Additional Data*	<i>Applications for approval of a multi-enterprise agreement*</i>	18

<sup>1</sup> If no application to modernise or terminate an enterprise instrument was received by the end of 31 December 2013, the instrument terminated after that date pursuant to Item 9(4) of the *FW (TPCA) Act*. The number provided for this item is the known number of enterprise instruments for which there was no application to modernise or terminate by 31 December 2013

<b>Item</b>	<b>Information required</b>	<b>Number</b>
Additional Data*	<i>Applications for approval of a greenfields enterprise agreement*</i>	59
2.2	Applications for variations of an enterprise agreement made under s.210	52
2.3	Applications for variations of an enterprise agreement made under s.217	4
2.4	Enterprise agreements approved under s.186	799
2.5	Enterprise agreements approved under s.189	0
Additional Data*	<i>Enterprise agreements approved under s.190*</i>	559
Additional Data*	<i>Single-enterprise agreements approved*</i>	1299
Additional Data*	<i>Multi-enterprise agreements approved*</i>	10
Additional Data*	<i>Greenfields enterprise agreements approved*</i>	49
Additional Data*	<i>Applications to approve an enterprise agreement rejected*</i>	5
2.6	Variations of enterprise agreements approved under s.211	42
2.7	Variations of enterprise agreements approved under s.217	5
<b>3</b>	<b>Bargaining orders</b>	
3.1	Applications for bargaining orders made under s.229	16
3.2	Applications for serious breach declarations made under s.234	0
3.3	Applications for majority support determinations made under s.236	30
3.4	Applications for scope orders made under s.238	4
3.5	Applications for FWC to deal with disputes made under s.240	44

<b>Item</b>	<b>Information required</b>	<b>Number</b>
3.6	Bargaining orders made under s.230	6
3.7	Serious breach declarations made under s.235	0
3.8	Majority support determinations made under s.237	14
3.9	Scope orders made under s.238	2
3.10	Decisions to deal with a dispute made under s.240 <sup>2</sup>	29
<b>4</b>	<b>Low-paid bargaining</b>	
4.1	Applications made for low-paid authorisations under s.242	0
4.2	Low-paid authorisations made under s.243	0
4.3	Low-paid authorisations varied under s.244	0
<b>5</b>	<b>Single interest employer authorisations</b>	
5.1	Applications for single interest employer authorisations made under s.248	5
5.2	Applications for variations of single interest employer authorisations to remove the employer's name from the authorisation made under s.251	0
5.3	Applications for variations of single interest employer authorisations to extend the period for which the authorisation is in operation made under s.252	0
5.4	Single interest employer authorisations made under s.249	4
5.5	Single interest employer authorisations varied to remove the employer's name from the authorisation made under s.251	0
5.6	Single interest employer authorisations varied to extend the period for which the authorisation is in operation under s.252	0

<sup>2</sup> This is a count of all matters resulted in the reporting period after intervention from FWC. This does not include invalid applications or applications that are withdrawn.

<b>Item</b>	<b>Information required</b>	<b>Number</b>
<b>6</b>	<b>Workplace determinations</b>	
6.1	Applications for consent low-paid determinations made under s.260	0
6.2	Applications made for special low-paid workplace determinations under s.260	0
6.3	Consent low-paid determinations made under s.261	0
6.4	Special low-paid workplace determinations made under s.262	0
6.5	Industrial action related workplace determinations made under s.266	1
6.6	Bargaining related workplace determinations made under s.269	0
<b>7</b>	<b>Equal remuneration orders</b>	
7.1	The number of equal remuneration order made under s.302	0
Additional Data*	<i>Applications for equal remuneration orders made under s.302*</i>	0
<b>8</b>	<b>Transfer of business</b>	
8.1	Applications for orders relating to instruments covering a new employer and transferring employees made under s.318	20
8.2	Applications for orders relating to instruments covering a new employer and non-transferring employees made under s.319	7
8.3	Applications for variations of a transferable instrument made under s.320	1
8.4	Orders made under s.318 relating to instruments covering a new employer and transferring employees	24
8.5	Orders made under s.319 relating to instruments covering a new employer and non-transferring employees	4
8.6	Variations of transferable instruments made under s.320	1

Item	Information required	Number
<b>9</b>	<b>General protections—compliance</b>	
9.1	Applications for FWC to deal with disputes made under s.365	912
9.2	Applications for FWC to deal with disputes made under s.372	199
Additional Data*	<i>Disputes made under s.365 that have been finalised*</i>	811
9.3	Certificates issued under s.369 <sup>3</sup>	203
Additional Data*	<i>Disputes made under s.372 that have been finalised*</i>	190
<b>10</b>	<b>Unfair dismissal</b>	
10.1	Applications for orders granting a remedy made under s.394	<b>3544</b>
10.2	<b>Applications for an order granting a remedy under s.394:</b>	
10.2(a)	Applications in relation to which the dismissal was found to be unfair	38
10.2(a)(i)	Reinstatement orders made under s.391	7
10.2(a)(ii)	Orders made under s.392 for the payment of compensation to a person	28
10.2(b)	Applications that related to a small business employer <sup>4</sup>	565
10.2(c)	Applications dismissed because dismissal was found to be fair <sup>5</sup>	31
10.2(ca)	The number of applications dismissed in a quarter under section 399A of the Act	15
10.2(d)	Claims dismissed because the dismissal was consistent with the Small Business Fair Dismissal Code	1

<sup>3</sup> From 1 January 2014 certificates are issued under section 368. This figure includes certificates under with section 368 or section 369.

<sup>4</sup> Data reported in the period it is collected based on information provided by the respondent where available. If a conciliation was not conducted, data is not collected

<sup>5</sup> Formerly inclusive of applications dismissed without a full consideration of the merits, see unfair dismissal quarterly report and published information note for detail of this data item.

Item	Information required	Number
10.2(e)	Claims dismissed because the dismissal was a case of genuine redundancy	3
10.2(f)	Cases dismissed for want of jurisdiction <sup>6</sup>	96
10.2(g)	Cases settled without a decision being made <sup>7</sup>	3329
10.2(h)	The time from the date of the application to the date of judgment <sup>8</sup>	107.03
10.2(i) & (j)	Number of cases settled by the conduct of 1 or more conferences / the number of cases settled by hearing <sup>9</sup>	NA
10.3	Applications under s.394 for FWC to deal with disputes for which the tribunal had allowed an extension of time	4
10.4	Orders for costs against a lawyer or a paid agent made under s.401	0
10.5	The number of costs orders made against a party to a matter in a quarter under s400A of the Act	NA <sup>10</sup>
Additional Data*	Application dismissed under ss. 399A and 587 <sup>11</sup>	81
<b>11</b>	<b>Protected action ballots and industrial action</b>	
Additional Data*	<i>Applications for protected ballot orders made under s.437*</i>	117
11.1	Applications to vary protected ballot orders made under s.447	1
11.2	Applications to revoke protected ballot orders made under s.448	9
11.3	Applications to extend periods in which industrial action is authorised made under s.459	37

<sup>6</sup> includes matters dismissed for the following reasons Application up to and including 7 days late and; Application more than 7 days late and; Multiple applications and; Minimum period of employment not served and; No award, agreement or high income employee and; Applicant not dismissed and; Termination consistent with Small Business Fair Dismissal Code and; Genuine redundancy and; Irregular casual employee; and Employer not national system employer and; Frivolous, vexatious and; No reasonable prospect of success

<sup>7</sup> All matters finalised except by substantive decision or for want of jurisdiction.

<sup>8</sup> Judgment means all matters finalised by substantive decision or for want of jurisdiction, inclusive of applications finalised by dismissal under s399A and s587. The calculation is based on the average number of days from the date of application to the date of judgment.

<sup>9</sup> All matters finalised by substantive decision or for want of jurisdiction.

<sup>10</sup> Data not currently available

<sup>11</sup> Previously reported within items 10.2(c) and 10.2(f)

<b>Item</b>	<b>Information required</b>	<b>Number</b>
11.4	Applications for orders varying the proportion by which an employee's payments are reduced made under s.472	2
Additional Data*	<i>Orders made under s.437 for a protected ballot order*</i>	97
11.5	Orders made under s.447 to vary a protected ballot order	2
11.7	Extensions made under s.459 to extend a period in which industrial action is authorised	39
11.8	Orders made under s.472 varying the proportion by which an employee's payments are reduced	0
<b>12</b>	<b>Right of entry</b>	
12.1	Applications for orders relating to access to non-member records made under s.483AA	23
12.2	Applications for orders relating to a dispute about the operation of Part 3-4 made under s.505	7
12.3	Orders relating to access to non-member records made under s.483AA	24
12.4	Orders relating to a dispute about the operation of Part 3-4 made under s.505 <sup>12</sup>	1
12.5	Actions restricting the rights exercisable under Part 3-4 by an organisation, or officials of an organisation taken under s.508	0
12.6	Entry permits revoked under s.510	0
12.7	Entry permits suspended under s.510	0
12.8	Applications for entry permits made under s.512	400
12.9	Applications for exemption certificates made under s.519	1
12.10	Applications for affected member certificates made under s.520	0
12.11	Entry permits issued under s.512	387

<sup>12</sup> Count of orders issued when the application is granted. Orders issued when dismissing an application are not included in the data



<b>Item</b>	<b>Information required</b>	<b>Number</b>
12.12	Exemption certificates issued under s.519	2
12.13	Affected member certificates issued under s.520	0
<b>13</b>	<b>Miscellaneous—disputes</b>	
13.1	Applications for FWC to deal with disputes in relation to a refusal by an employer for flexible working arrangements made under s.739	15
13.2	Applications for FWC to deal with disputes made under s.773	21
13.3	Certificates issued under s.777 <sup>13</sup>	5
<b>13A</b>	<b>Registered organisations</b>	
13A.1	Applications for registration made under s.18A, FW (RO) Act	2
13A.1	Applications for registration made under s.18B, FW (RO) Act	0
13A.1	Applications for registration made under s.18C, FW (RO) Act	0
13A.2	Applications for orders made under s.133, FW (RO) Act	0
13A.3	Orders made under s.133, FW (RO) Act	0
13A.4	Applications for representation orders made under s.137A, FW (RO) Act	0
13A.5	Representation orders made under s.137A, FW (RO) Act	0
13A.6(a)	Applications for recognition made under clause 1 of Schedule 2, FW (RO) Act	8
13A.6(b)	Applications for orders cancelling recognition made under clause 3 of Schedule 2, FW (RO) Act	0
13A.7	Applications for recognition granted under clause 1 of Schedule 2, FW (RO) Act	9
13A.8	Orders cancelling recognition made under clause 3 of Schedule 2, FW (RO) Act	0

<sup>13</sup> From 1 January 2014, certificates are issued under s778. This figure includes certificates under either s777 or s778.

Item	Information required	Number
<b>13B</b>	<b>Transitional instruments</b>	
13B.1	Applications for conditional terminations made under item 18 of Schedule 3, FW (TPCA) Act <sup>14</sup>	NA
13B.2	Conditional terminations made under item 18 of Schedule 3, FW (TPCA) Act <sup>15</sup>	NA

## Notes

\* Additional information included for completeness by the Fair Work Commission. Unless otherwise stated sections referred to above reference the *Fair Work Act 2009*. FW (TPCA) Act refers to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009*. FW (RO) Act refers to the *Fair Work (Registered Organisations) Act 2009*.

## Disclaimer

This report should be read in conjunction with the Fair Work Commission information note for Quarterly reports.

In compiling this quarterly report all efforts have been made to ensure statistical accuracy, however, minor revisions in figures may occur from time to time. The Fair Work Commission annual report, which is tabled in the Australian Parliament each year, is the official statistical record of tribunal activities for the financial year.

## Further information

If you have an inquiry about this report please contact Elisha Warren, Manager, Media and Communications. Phone 03 8656 4848 or by email [communications@fwc.gov.au](mailto:communications@fwc.gov.au).

<sup>14</sup> There is no requirement to apply for a termination under this part. The termination is an outcome of an agreement approved under s185.

<sup>15</sup> There is no requirement to order a termination under this part. The termination is an outcome of an agreement approved under s185.