



Family Provisions Case 2005

Full Bench (5 members) presiding over case:

Commission President Justice Geoffrey Giudice, Vice President Iain Ross, Senior Deputy President Rob Cartwright, Deputy President Ken Ives, Commissioner Anna Lee Cribb.

Procedural History

Applications filed by unions	23-24 Jun 2003
Applications filed by employer organisations	18-19 Aug 2003
Hearings	23 Jul, 26 Sep, 27 Nov, 18 Dec 2003 27 Feb, 15 Jul 2004
Conciliation conferences before Marsh SDP	29 Aug, 4, 12, 26 Sep, 10, 22 Oct, 12, 20 Nov, 3, 12 Dec 2003 10, 20 May, 18, 25 Jun 2004
Statement issued	18 Dec 2003
Statement and directions issued	10 Mar 2004
Directions issued	20 Apr, 20 Jul 2004
Deadlines for written submissions and evidentiary material including witness statements	30 Apr, 14 May, 2 Jul, 30 Jul, 2, 13 Aug 2004
First hearing for oral submissions	1 Sep 2004
Further hearings	2-3, 6-10, 29-30 Sep, 13-17 Dec 2004
Decision issued	8 Aug 2005

The claims

The case involves 13 applications - five lodged by unions and eight by employer organisations - to vary various awards to incorporate provisions aimed at assisting employees to better manage their work and family responsibilities. The unions are being represented by the Australian Council of Trade Unions and the employers by the Australian Industry Group, the Australian Chamber of Commerce and Industry and the National Farmers Federation.

From August 2003 to June 2004 conciliation conferences before Senior Deputy President Jan Marsh were held on 15 occasions. This process led to some agreement by the parties on the disputed issues.

Documents online

Documents relating to the case - including the applications, directions, transcript, submissions and exhibits - can be accessed from a dedicated page on the AIRC web site. The address is <http://www.e-airc.gov.au/familyprovisions>

Previous Decisions

In the past 25 years the Commission has handed down a number of test case decisions aimed at assisting employees to better manage their work and family responsibilities. These include:

- 1979 Maternity Leave [Print D9579]
- 1985 Adoption Leave [Print F9852]
- 1990 Parental Leave [Print J3596]
- 1994 Family Leave [Print L6900]
- 1995 Personal/Carers' Leave [Print M7000]
- 2001 Parental Leave for Casual Employees [PR904631]

Test cases

A test case in the Commission typically involves a Full Bench hearing a number of identical applications that seek a common award variation. If successful, the variation may become a test case standard, which may then flow through to other awards by application. In such follow-on cases the applicant would not be required to argue the full case, but the Commission may consider modifications to the clause to suit the circumstances or needs of a particular industry. The variation would apply immediately to those awards named in the test case.

Examples of test cases in the Commission include national wage cases (now known as Safety Net Review cases) and the Working Hours Case - July 2002.

There is no specific reference to the term 'test case' in the *Workplace Relations Act 1996*. The Act does, however, provide for Full Benches of the Commission to establish precedent-setting principles for award variations.

Further information:

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Please note: The above information has been prepared to assist members of the public, and particularly the media, in gaining a basic understanding of this case. It is a summary only and it is recommended that those with an interest in the case read the documents associated with the case including written submissions. Such documents are available at a dedicated web site at

<http://www.e-airc.gov.au/familyprovisions>.