

JUNE 2025

---

Industrial Reports from the High Court, Federal Court, the State and Territory  
Supreme Courts, and Federal and State Industrial Courts and Tribunals

Incorporating the Authorised Reports of the Fair Work  
Commission, the Industrial Relations Commission of NSW,  
the Industrial Court of Queensland and the  
Queensland Industrial Relations Commission

---

# INDUSTRIAL REPORTS

## 2025

### CONSULTANTS

The Honourable JUSTICE ADAM HATCHER  
*President of the Fair Work Commission*

The Honourable JUSTICE INGMAR TAYLOR  
*President of the  
Industrial Relations Commission of New South Wales*

The Honourable LANCE WRIGHT KC  
*former President of the  
Industrial Relations Commission of New South Wales*

ALICIA ASH BA LLB (Hons)

### MANAGING EDITOR

MAHREEN HASAN BCom (Hons) LLB, MPP

**VOL 337 — PART 4**

**PAGES 353-473**

The mode of citation of this part will be:  
337 IR

---

---

## TABLE OF CASES REPORTED

Part 4 — Pages 353-473

Construction, Forestry and Maritime Employees Union v Sydney International Container Terminals Pty Ltd (Fed Ct of Aust) .....	319
Dixon v United Workers Union (Fair Work Commission) .....	1
<b>DOF Subsea Australia Pty Ltd, Re (Fair Work Commission)</b> .....	399
Drage v Gold Coast Hospital and Health Service (Qld Sup Ct) .....	284
<b>Grant v Commissioner of Police (NSW Indus Relations Commn)</b> .....	419
Hancock v Sydney International Container Terminals Pty Ltd (Fair Work Commission) .....	227
Hawken v Patrick Stevedores Holdings Pty Ltd (Fair Work Commission) .....	11
Lederer Group Pty Ltd v Hodson (NSW Ct of App) .....	55
<b>Naden v Catholic Schools Broken Bay Ltd (Fair Work Commission)</b> .....	353
State Wage Case 2024 (No 3), Re (NSW Indus Relations Commn) .....	111
State Wage Case 2024 (No 4), Re (NSW Indus Relations Commn) .....	182
Virgin Airlines Australia Pty Ltd v Macnish (Fair Work Commission) .....	32
Visscher v Fripp (NSW Indus Relations Commn) .....	202
<b>Wollermann v Fortrend Securities Pty Ltd (Fed Ct of Aust)</b> .....	457

---

(Cases in **bold** reported in this part)

---



© 2025 Thomson Reuters (Professional) Australia Limited

Lawbook Co.

ABN 64 058 914 668

Published in Sydney

ISSN 0728-8417

# INDEX

Part 4 — Pages 353-473

## ENTERPRISE AGREEMENT

Application for approval of single-enterprise agreement — Statutory requirements for approval — Genuine agreement by employees covered by enterprise agreement — Constitution of voting cohort — Constitution by casual employees — Where applicant seeks approval of enterprise agreement covering certain employees engaged in offshore energy projects — Where employees constituting voting cohort employed by applicant on casual basis — Where certain members of voting cohort not engaged to work during or after access period — Where other casual employees engaged to work after access period excluded from voting cohort — Whether constitution of voting cohort satisfied requirement that enterprise agreement be approved by vote of majority of employees employed at time who would be covered by agreement — Whether enterprise agreement accordingly genuinely agreed to by covered employees — Whether any errors in constitution of voting cohort able to be disregarded as minor procedural or technical errors — Application dismissed — Voting cohort incorrectly constituted — Resultant error neither minor procedural nor technical error — Fair Work Act 2009 (Cth), ss 15A, 181, 182, 185, 186, 188.

*Re DOF Subsea Australia Pty Ltd (Fair Work Commission)* ..... 399

## INDUSTRIAL LAW

Alleged contraventions by employer of ss 323 and 536 of Fair Work Act 2009 (Cth) — Accessorial liability — Where applicants employed by first respondent made trades on behalf of clients — Where applicants eligible for bonuses upon exceeding monthly commission threshold — Where first respondent did not pay bonuses following applicants' resignation — Where first respondent did not provide applicants with payslips or provided deficient ones — Where first respondent via second respondent as managing director unilaterally deducted amounts from first applicant's salary — Where first respondent failed to pay long service leave entitlements — Whether first respondent contravened ss 323 and 536 of Fair Work Act 2009 (Cth) regarding pay deductions and payslips respectively — Whether contravention of s 323 serious — Whether second respondent knowingly concerned in contraventions — First respondent contravened ss 323 and 536 of Fair Work Act 2009 (Cth) — Second respondent knowingly concerned in contraventions of s 323 of Fair Work Act 2009 (Cth) — Applicants entitled to payment of long service leave — Fair Work Act 2009 (Cth), ss 323, 536(1), 536(2), 550, 557A(1) — Long Service Leave Act 2018 (Vic), ss 6, 15(2).

*Wollermann v Fortrend Securities Pty Ltd (Fed Ct of Aust)* ..... 457

## INDEX

### INDUSTRIAL LAW — *continued*

- Application to deal with dispute — Dispute regarding flexible working arrangements — Where executive employee on paid parental leave requested initial return to work on part-time basis — Where relevant enterprise agreements incorporated provisions in Fair Work Act 2009 (Cth) dealing with requests for flexible working arrangements — Where employer refused request as detrimental to continuity in education of students and as involving significant cost to accommodate — Where employer proffered several alternatives to facilitate employee's return to work — Where alternatives included employee foregoing executive position until return to work on full-time basis — Where foregoing executive position would cause financial loss to employee — Whether grounds advanced by employer for refusing request constituted reasonable business grounds within meaning of s 65A(4) of Fair Work Act 2009 (Cth) — Employer's concern regarding continuity in education of students constituted reasonable business ground for refusing request — Application dismissed — Fair Work Act 2009 (Cth), ss 65, 65A, 65C, 596(2)(a), 739.
- Naden v Catholic Schools Broken Bay Ltd (Fair Work Commission)* ..... 353

### PRACTICE AND PROCEDURE

- Application by employee for relief from victimisation — Where employer brought notice of motion to dismiss or set aside application — Whether claims filed out of time, and if so, whether it ought be accepted out of time, and otherwise whether claims disclosed reasonable cause of action — Consideration of when time commences to run for purposes of limitation period where it is alleged that employer engaged in "course of conduct" — Whether and when "ongoing detrimental conduct" provides sufficient reason for Industrial Relations Commission (NSW) to accept application out of time — Motion allowed in respect of out of time claims but dismissed in respect of remaining claim — Industrial Relations Act 1996 (NSW), ss 210, 213.
- Grant v Commissioner of Police (NSW Indus Relations Commn)* ..... 419