



DECISION

Fair Work Act 2009

s.158—Application to vary or revoke a modern award

Application by Australian Federation of Air Pilots (AM2025/25)

DEPUTY PRESIDENT FAROUQUE

MELBOURNE, 23 JUNE 2026

Application to vary the Air Pilots Award 2020 – first and second officers under training – setting of minimum wages – draft determination.

Introduction

[1] The Australian Federation of Air Pilots (**AFAP**) has applied to the Commission pursuant to s 158 of the *Fair Work Act 2009 (Cth)* (the **Act**) for a determination to vary the *Air Pilots Award 2020* (the **Pilots Award**). The procedural history to this matter is set out in my statement of 25 May 2026 (the **May Statement**).¹ I note that the application as before the Commission is in the form of an amended application dated 6 February 2026.

[2] The AFAP application has two aspects.

[3] Firstly, the application seeks a variation to the definition of “first officer” in clause 2 of the Pilots Award to include a first officer under training. That variation, if made, would mean that a pilot who is initially employed by an employer to undertake initial training for a first officer position would be a first officer for the purposes of the Pilots Award.

[4] Secondly, the application seeks to introduce a second officer under training classification in the Pilots Award by inserting a new definition for this classification in clause 2, varying the definition of “pilot” in clause 2 and amending the salary table at A.1.2 of Schedule A to include a minimum annual salary for a second officer under training.

[5] The Pilots Award is an occupational award which covers air pilots. Broadly speaking, the proposed variations would have the effect that the Pilots Award covers first officers in training and second officers under training and sets minimum award rates for those employees.

[6] The Australian International Pilots Association (**AIPA**) and Qantas Airways Limited (**Qantas**) have each appeared in the matter and support the making of the variations sought in the amended application. The AFAP, AIPA and Qantas consent to the application being determined on the papers.

¹ [2026] FWC 1894.

Background

[7] The AFAP application to vary the Pilots Award was made following the decision of Deputy President Saunders in *Qantas Airways Limited Pilots (Short Haul) Enterprise Agreement 2024 (EBA9) (EBA9 Case)*².

[8] The *EBA9 Case* concerned an application by Qantas under s 185 of the Act for approval of an enterprise agreement which covered pilots, including first officers in training, employed by Qantas in short haul operations and who were eligible to be members of the AIPA. The AFAP opposed the application including on the ground that first officers in training would not be better off overall under the enterprise agreement compared to the Pilots Award. The better off overall issue arose under the better off overall test (**BOOT**) in s 193 of the Act.

[9] In order to determine the BOOT question, the Deputy President had to first decide whether first officers in training were covered by the Pilots Award. In doing so, the Deputy President considered the express terms of the Pilots Award as it concerned coverage and the broader history of award coverage of pilots under predecessor awards. The Deputy President ultimately decided that first officers in training were not first officers within the meaning of the Pilots Award and were not covered by the Pilots Award. In so holding, the Deputy President concluded as follows:

[103] For the reasons given, I conclude that FOTs are not First Officers within the meaning of the Pilots Award, and they are not covered by the Pilots Award. I consider that employees in a classification equivalent to that of FOT inadvertently fell out of coverage of awards governing pilots when the Air Pilots Award 2010 was made in 2009 and the previous enterprise awards ceased to operate. This may provide an appropriate basis to consider (in other proceedings) whether the Pilots Award should be amended to include a FOT type classification.

[10] The AFAP has made the application to vary the Pilots Award consequent on the conclusion reached by the Deputy President in the *EBA9 Case* regarding award coverage. The grounds relied upon by the AFAP in support of the application include that the Pilots Award was intended to cover commercial pilots when undergoing training and that the variations provide for that coverage.

Terms of the Proposed Variations

[11] For the reasons set out in this decision, I am satisfied that it is appropriate to make a determination varying the Pilots Award substantially in the form sought by the AFAP. The only difference in the form of the proposed determination worthy of noting relates to the salary table under clause A.1.2 of Schedule A. In that regard, I propose that the salary for a second officer under training set out in the table incorporate the adjustment flowing from the Annual Wage Review 2026 decision which applies from 1 July 2026. Furthermore, I propose to include a note under the table setting out the basis for calculation of the salary for a second officer under training (see par [14] below).

² *Qantas Airways Limited Pilots (Short Haul) Enterprise Agreement 2024 (EBA9)* [2025] FWC 1238.

[12] In relation to first officer in training, the variation I propose is to amend the definition of “first officer” in clause 2 of the Pilots Award. The nature of the amendment is highlighted below with the insertion of the marked up text:

first officer means a pilot who is appointed as first officer by the employer and who currently is licensed by CASA to act as second or third in command of an aircraft requiring 2 or more pilots or a pilot who is initially employed by the employer to undertake initial training for a first officer position.

[13] In relation to second officers under training, the variations I propose to make has three aspects as follows:

- (a) the insertion of a new definition in clause 2 of the Pilots Award as follows:

second officer under training means a pilot under training for a second officer position.

- (b) amending the definition of “pilot” in clause 2 of the Pilots Award with the insertion of the marked up text:

pilot means a person who is the holder of a commercial pilot’s licence or airline transport pilot’s licence and is employed under the provisions of the award, including pilots operating overseas from a base within Australia on behalf of the operator. The term pilot includes a check pilot, training pilot, first officer, ~~and~~ second officer and second officer under training.

- (c) the insertion of minimum annual rates for a second officer under training in clause A.1.2 of Schedule A of the Pilots Award (insertion marked up):

Classification	Minimum salary per annum (full-time employee)			
	Captain	First Officer	Second Officer	<u>Second Officer under Training</u>
	\$	\$	\$	<u>\$</u>
FOKKER 28	161,088	106,780		
CRJ-50	161,088	106,780		
BAe-146	174,391	115,162		
Fokker 100	174,391	115,162		
Boeing 717	174,391	115,162		
Narrow body aircraft	182,826	120,407		
Wide body aircraft–single deck	209,905	138,126	83,788	<u>75,738</u>

Classification	Minimum salary per annum (full-time employee)			
	Captain	First Officer	Second Officer	<u>Second Officer under Training</u>
	\$	\$	\$	\$
Wide body aircraft–double deck	236,988	155,846	94,420	<u>75,738</u>

[14] I also propose to include a note under the table in clause A.1.2 of Schedule A to explain the method of calculation of the second officer under training rate. The explanatory footnote is as follows:

The minimum annual salary for Second Officer under Training is calculated as 85% of the average of the Second Officer Wide body aircraft–single deck and the Second Officer Wide body aircraft–double deck minimum annual salaries, rounded to the nearest dollar.

[15] The form of the draft determination making the variations to the Pilots Award is attached to these reasons for decision.

Consideration

Whether setting of modern award minimum rates

[16] The power to vary a modern award arises under s 157 of the Act. Section 157 of the Act is relevantly in the following terms:

157 FWC may vary etc modern awards if necessary to achieve modern awards objective

(1) The FWC may:

(a) make a determination varying a modern award, otherwise than to vary modern award minimum wages or to vary a default fund term of the award; or

...

if the FWC is satisfied that making the determination ... is necessary to achieve the modern awards objective.

(2) The FWC may make a determination varying modern award minimum wages if the FWC is satisfied that:

(a) the variation of modern award minimum wages is justified by work value reasons; and

(b) making the determinations outside the system of annual wage reviews is necessary to achieve the modern awards objective.

...

[17] Section 157 provides two alternative bases to vary a modern award. As it concerns the present matter, if the proposed variations to the Pilots Award were made pursuant to s 157(1), the variations would in effect constitute the setting of a modern award minimum wage. Alternatively, if the proposed variations to the Pilots Award were made pursuant to s 157(2), the variations would constitute the variation to modern award minimum wages.

[18] As noted in paragraph [6] above, Qantas supports the variations. However, that support was expressed subject to the variations being made pursuant to s 157(1)(a) of the Act, thereby being the setting of modern award minimum wages.

[19] In the May Statement, I expressed the provisional view that the decision in the *EBA9 Case* correctly sets out that first officers in training are not first officers within the meaning of the Pilots Award and that I proposed to follow that reasoning. I also expressed the provisional view that the reasoning in the *EBA9 Case* is also applicable in relation to second officers under training and whether second officers under training are second officers within the meaning of the Pilots Award. I stated that if these provisional views are correct, then the proposed variations to the Pilots Award relating to both first officers in training and second officers under training would constitute the setting of a minimum award rate pursuant to s 157(1)(a).³

[20] I invited submissions from interested parties in relation to my provisional views and indicated that if no party wished to be heard, I proposed to vary the Pilots Award pursuant to s 157(1)(a) of the Act on the basis that the variations would constitute the *setting* of minimum award rates.

[21] There were no interested parties who made any submission opposing my provisional views. I confirm my provisional view. The proposed variations constitute the *setting* of modern award minimum wages pursuant to s 157(1)(a)

Modern Awards Objective and Minimum Wages Objective

[22] Under s 157(1), the Commission may make a determination varying a modern award if it is satisfied that the determination is necessary to achieve the modern awards objective.

[23] The modern awards objective is set out at s 134 of the Act and is in the following terms:

134 The modern awards objective

What is the modern awards objective?

(1) The FWC must ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety net of terms and conditions, taking into account:

(a) relative living standards and the needs of the low paid; and

(aa) the need to improve access to secure work across the economy; and

(ab) the need to achieve gender equality in the workplace by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based

³ [2026] FWC 1894 at [9].

undervaluation of work and providing workplace conditions that facilitate women's full economic participation; and

(b) the need to encourage collective bargaining; and

(c) the need to promote social inclusion through increased workforce participation; and

(d) the need to promote flexible modern work practices and the efficient and productive performance of work; and

(da) the need to provide additional remuneration for:

(i) employees working overtime; or

(ii) employees working unsocial, irregular or unpredictable hours; or

(iii) employees working on weekends or public holidays; or

(iv) employees working shifts; and

(f) the likely impact of any exercise of modern award powers on business, including on productivity, employment costs and the regulatory burden; and

(g) the need to ensure a simple, easy to understand, stable and sustainable modern award system for Australia that avoids unnecessary overlap of modern awards; and

(h) the likely impact of any exercise of modern award powers on employment growth, inflation and the sustainability, performance and competitiveness of the national economy.

*This is the **modern awards objective**.*

When does the modern awards objective apply?

*(2) The modern awards objective applies to the performance or exercise of the FWC's **modern award powers**, which are:*

(a) the FWC's functions or powers under this Part; and

(b) the FWC's functions or powers under Part 2-6, so far as they relate to modern award minimum wages.

Note 1: The FWC must also take into account the objects of this Act and any other applicable provisions. For example, if the FWC is setting, varying or revoking modern award minimum wages, the minimum wages objective also applies (see section 284).

Note 2: Further, the FWC must take into account the road transport objective when performing certain functions: see section 40D and subsection 617(10B).

[24] The modern awards objective requires the Commission to “ensure that modern awards, together with the National Employment Standards, provide a fair and relevant minimum safety

net of terms and conditions” taking into account the factors identified in ss 134(1)(a)–(h) of the Act.

[25] The modern awards objective is broadly expressed. The obligation to take into account the considerations under s 134(1) means that each of these matters, insofar as they are relevant, must be treated as a matter of significance in the decision-making process. No primacy is attached to any of the considerations under s 134(1) and not all of the listed considerations will be relevant in the context of a particular proposal. It is not necessary to make a finding that the award fails to satisfy one or more of the s 134(1) considerations as a prerequisite to the variation of the modern award. Rather, in giving effect to the modern awards objective, the Commission is performing an evaluative function taking into account the matters in s 134(1)(a)–(h) and assessing the qualities of the safety net by reference to the statutory criteria of fairness and relevance.⁴

[26] I am satisfied that the making of the variations to the Pilots Award is necessary to achieve the modern awards objective to provide a fair and relevant minimum safety net of terms and conditions. As submitted by AFAP, the Pilots Award sets out a number of significant terms and conditions highly relevant to the occupation of pilots including those relating to training bonds (clause 13.6), hours of work (clause 15) and pilot indemnity (clause 21.12). I am satisfied the making of the variations would ensure that first officers in training and second officers under training are entitled to such fair and relevant safety net terms and condition.

[27] In reaching this conclusion, I am of the view that the variations would not have an adverse impact on business including productivity and employment costs (s 134(1)(f)). I am of this view for two reasons. Firstly, I accept the uncontradicted AFAP submission that the industry has in practice applied the terms in the Pilots Award to first officers in training. Secondly, the proposed minimum annual salary for second officer under training in clause A.1.2 of Schedule A is set at 85% of the average of the Wide body aircraft–single deck and the Wide body aircraft–double deck second officer minimum salaries. This is a sum of \$75,738 including some minor rounding. I am also of the view that none of the other considerations under s 134(1) weigh against the proposed variations.

[28] Section 284 of the Act sets out a minimum wages objective. Section 284 is in the following terms

284 The minimum wages objective

What is the minimum wages objective?

(1) The FWC must establish and maintain a safety net of fair minimum wages, taking into account:

(a) the performance and competitiveness of the national economy, including productivity, business competitiveness and viability, inflation and employment growth; and

⁴ [2020] FWCFB 1837 at [113]–[115].

- (aa) the need to achieve gender equality, including by ensuring equal remuneration for work of equal or comparable value, eliminating gender-based undervaluation of work and addressing gender pay gaps; and*
- (b) promoting social inclusion through increased workforce participation; and*
- (c) relative living standards and the needs of the low paid; and*
- (e) providing a comprehensive range of fair minimum wages to junior employees, employees to whom training arrangements apply and employees with a disability.*

*This is the **minimum wages objective**.*

When does the minimum wages objective apply?

(2) The minimum wages objective applies to the performance or exercise of:

- (a) the FWC's functions or powers under this Part; and*
- (b) the FWC's functions or powers under Part 2-3, so far as they relate to setting, varying or revoking modern award minimum wages.*

Note: The FWC must also take into account the objects of this Act and any other applicable provisions. For example, if the FWC is setting, varying or revoking modern award minimum wages, the modern awards objective also applies (see section 134).

Meaning of **modern award minimum wages**

*(3) **Modern award minimum wages** are the rates of minimum wages in modern awards, including:*

- (a) wage rates for junior employees, employees to whom training arrangements apply and employees with a disability; and*
- (b) casual loadings; and*
- (c) piece rates.*

Meaning of **setting** and **varying** modern award minimum wages

*(4) **Setting** modern award minimum wages is the initial setting of one or more new modern award minimum wages in a modern award, either in the award as originally made or by a later variation of the award. **Varying** modern award minimum wages is varying the current rate of one or more modern award minimum wages.*

[29] Section 284 of the Act operates such that the award minimum wages objective in subsection (1) applies to the setting of a modern award minimum wage. I am satisfied that the proposed variations to the Pilots Award, which operate to set minimum wages for first officers in training and second officers under training, is consistent with the minimum wages objective in s 284(1). In that regard, the variation entitles pilots initially employed as first officers in

training, to be paid to undertake their initial training at the minimum rates applicable to first officers. In relation to the proposed variations concerning second officers under training, I refer to the matters concerning second officers under training set out under paragraph [27]. I am further of the view, that none of the considerations under s 284(1), as are relevant, weigh against the making of the variations.

Continued Operation of Clause 12.2

[30] I note that the variations are not intended to affect the operation of clause 12.2(b) of the Pilots Award. Therefore, an existing second officer employed by an employer who then undertakes initial training for a first officer position during the continued employment with that employer will maintain their salary as a second officer until the employee is proficient as a first officer.

Next steps:

[31] A draft determination intended to give effect to this decision is published with this decision. Parties are invited to make any comments of a technical nature on the draft determination. Comments are to be sent to awards@fwc.gov.au by **4.00 pm (AEST) on Tuesday, 30 June 2026**.

[32] In the absence of any opposing submissions, a final determination in the terms set out in the draft determination will be issued.



DEPUTY PRESIDENT

Appearances:

Mr Marks for the Australian Federation of Airline Pilots.

Ms Mehta for the Australian & International Pilots Association.

Mr Ward for Qantas Airways Ltd.

Hearing details:

16 January 2026 (Mention).

31 March 2026 (Mention).

Determined on the papers.

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DRAFT DETERMINATION

Fair Work Act 2009

s.158—Application to vary or revoke a modern award

Australian Federation of Air Pilots
(AM2025/25)

AIR PILOTS AWARD 2020
[MA000046]

Airline operations

DEPUTY PRESIDENT FAROUQUE

MELBOURNE, XX MONTH 2026

Application to vary Air Pilots Award 2020 in relation to first and second officers under training – definitions varied – setting of minimum rates – award varied.

A. Further to the decision issued by the Fair Work Commission on XX June 2026 ([2026] FWC XXXX), the above award is varied as follows:

1. By deleting the definition of “first officer” in clause 2 and inserting the following:

first officer means a pilot who is appointed as first officer by the employer and who currently is licensed by CASA to act as second or third in command of an aircraft requiring 2 or more pilots or a pilot who is initially employed by the employer to undertake initial training for a first officer position.

2. By deleting the words “and second officer” appearing in the definition of “pilot” in clause 2 and inserting “, second officer and second officer under training”.

3. By inserting the following definition in clause 2 in alphabetical order:

second officer under training means a pilot under initial training for a second officer position.

4. By deleting the table appearing in clause A.1.2 and inserting the following:

Classification	Minimum salary per annum (full-time employee)			
	Captain	First Officer	Second Officer	Second Officer under Training¹
	\$	\$	\$	\$
Fokker 28	161,088	106,780		
CRJ-50	161,088	106,780		
BAe-146	174,391	115,162		
Fokker 100	174,391	115,162		
Boeing 717	174,391	115,162		
Narrow body aircraft	182,826	120,407		
Wide body aircraft–single deck	209,905	138,126	83,788	75,738
Wide body aircraft–double deck	236,988	155,846	94,420	75,738

¹ The minimum annual salary for Second Officer under Training is calculated as 85% of the average of the Second Officer Wide body aircraft–single deck and the Second Officer Wide body aircraft-double deck minimum annual salaries, rounded to the nearest dollar.

B. This determination comes into operation on XX MONTH 2026. In accordance with s 166(5) of the *Fair Work Act 2009* (Cth) this determination does not take effect in relation to a particular employee until the start of the employee’s first full pay period that starts on or after XX MONTH 2026.

DEPUTY PRESIDENT