



SITREP 37/13

IRC decision in Regs dispute - update #2

As SITREPs 28 and 33/2013 reported, IRC President Justice Boland found against the need for formal disciplinary inquiries, but also found that the Department's proposed new Regulation and procedural guidelines required amendment to ensure a fair and transparent process. This was the subject of negotiations between the Union and Department with agreement being reached on most points, bar the Union's insistence that any future changes to the Regs and guidelines should not occur without proper consultation with the Union, and referral if necessary to the IRC under the Organisational Change provisions of our Awards (Clause 36 of the Permanent Award and Clause 27 of the Retained Award). The Department remained vehemently opposed to this final matter, so it was up to Justice Boland to issue a decision after considering further submissions from the Union and Department.

That decision was handed down on Tuesday, with Justice Boland finding that:

12. *It seems to me a relatively simple amendment may be made to the Awards that will resolve the industrial dispute by avoiding any apprehension or uncertainty that may impact adversely on industrial relationships between the parties and be consistent with undertakings FRNSW is prepared to offer. Whilst the proposed Regulation provides for a "proper process" of consultation it does not prescribe that process whereas the Awards do so.*
15. *The submission by FRNSW that it "understands" it is contrary to Government Wages Policy to allow policy matters into Awards provides the Commission with no assistance and, in any event, the variations I have proposed hardly amount to policy matters.*
16. *No submission was put that the award variations proposed by the FBEU were inconsistent with the Industrial Relations (Public Sector Conditions of Employment) Regulation 2011 or the Industrial Relations Act 1996. The variations I have proposed do not go as far as what the FBEU proposed and could not in any way be regarded as inconsistent with those statutory provisions.*

Links to Justice Boland's decision and Award variations can be found on the web version of this SITREP.

Reminder to be lawful, not reasonable

SITREP 13/2011 included the following advice which, given some of the industrial enquiries received in the last few weeks, is re-issued here for members' information.

The Union has received some recent enquiries which suggest a fundamental lack of understanding of the Award, and the law of employment more broadly, by the Department. Members have been "asked" (with varying degrees of force) to shun their entitlements and participate in a "bit of give and take" with the Department. This has included instances of members being asked to attend unpaid training sessions, or waive their entitlement to kms, etc.

Our Award sets out the minimum pay and conditions for all members, and the Department is bound to stick by it. You cannot be paid less or receive conditions that are less than those set out in the Award, and the Department can't contract out of the Award by agreeing to or allowing any member to accept lesser conditions or to ignore the Award. Any of these actions are in fact illegal.

So the next time a manager asks you to waive pay or conditions to which you are legitimately eligible under the guise of "give and take", or "being a good bloke", tell them all that you are asking for is your legal entitlement - no more, no less.



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Disposition Forms Banned - Update

Following SITREP 36/2013 which confirmed our banning of Regional West's new forms, the Department notified the IRC of a dispute that was this week heard by the Commission's Justice Staff.

Those proceedings were interesting to say the least, with Justice Staff clearly unimpressed by what he described as a "unilateral" attempt by Regional West management to require Station Commanders to fill out and submit a new "Proposed Activities for the Shift" box and the failure to consult with members or the Union. That the offending management instruction was issued barely 36 hours before its expected introduction was not lost on the judge, either.

Justice Staff recommended that the Union lift its ban and that the Department withdraw the new form, which both parties agreed to do and subsequently did. Dispute sorted.

Sick during annuals or LSL? You may be entitled to a leave re-credit

Permanent members who suffer illness or injury during Annual or Long Service Leave are reminded of their entitlement to a re-credit of that leave if:

- you have a medical certificate dated the first day of their illness/injury; and
- you remained ill/injured for five or more consecutive days; and
- you apply in writing to your Duty Commander for a re-credit on your first shift back from leave, together with confirmation of your submission of the medical certificate through the normal (ie, confidential) channels.

The amount of leave to be re-credited will be the rostered hours that you would have worked had you not been on leave. For example, a member on Annual Leave who was sick from Monday to Friday inclusive and whose Platoon is rostered to commence their first day shift on the Thursday would be entitled to a re-credit of 20 hours' Annual Leave.

Re-credited Annual Leave must be taken in one block (ie, not split) within three pay periods (6 weeks) of returning to duty. Your application should nominate the date you wish your re-credited leave to start, otherwise the re-credited leave must be taken when directed by the Commissioner. Re-credited Long Service Leave may be taken at any time, subject to approval by the Department.

UK comrades on strike

Firefighters in England and Wales went on strike this week over government attacks on their pensions. Fire Brigades Union (FBU) General Secretary Matt Wrack, who this week thanked the FBEU for our message of solidarity, said that: "This strike was a last resort after the government refused to negotiate - and a warning shot that firefighters are serious about keeping a fair, safe and workable pensions scheme."

Jim Casey
State Secretary

Friday 27 September 2013