



SitRep 2

IRC rules in FBEU favour – Another big win but the fight continues. Status Quo and In-Order 2008/22 remains in place.

Yesterday, January 14, The FBEU was back in the IRC about FRNSW's attempts to remove In-Order 2008/22 (which puts in place a number of rules about TOLing, minimum staffing, move-ups, dealing with retained shortages and more) and replace it with new In-Orders.

Commissioner Sloan decided that FRNSW cannot implement In-Order 2019/20 and that Status Quo should remain – thereby In-Order 2008/22 stays in place while the dispute continues.

Commissioner Sloan agreed with the FBEU and decided that the IRC has the ability to make orders about FRNSW In-Orders, particularly those that involve organisational change and that our Awards (both Permanent and Retained) as they stand allow for the status quo to be maintained while the IRC can look into a dispute more fully.

This is very significant because the Department argued that the Commission did not have the jurisdiction to make this decision. It's a very important decision for us – and not just in the dispute about these In-Orders.

Put simply, it means that In-Orders, where they include matters that relate to our jobs and work, have been found by the Commission, to be enforceable and therefore changes to them, can be subject of dispute.

Background

The Union lodged a dispute about the FRNSW publishing In-Orders 2019/20 that were meant to replace In-Orders 2008/22. This dispute has been in the IRC on a number of occasions on many different aspects:

- FRNSW argued that our dispute be dismissed because the IRC does not have the capacity to make orders about 'organisational change' (a jurisdictional argument), however **they lost that argument;**
- FRNSW also demanded that the IRC order the Union to abandon its Code Red, which was to maintain In-Orders 2008/22, however Commissioner Sloan was unwilling to lift the Code Red – and so **FRNSW lost that argument too.**
- FRNSW also argued that there is nothing in our Awards that allows for the status quo to be maintained. Commissioner Sloan decided today that this is not the case, and **FRNSW also lost this argument.**



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Where to from here?

We've had a number of significant wins in this dispute but the big one is yet to come.

The IRC will hear the main dispute, about the merits of In-Order 2019/20 on 30 March 2020.

The FBEU team is preparing for an almighty struggle about this very significant issue which could impact members very substantially. The FBEU is still open to an associated settlement, we have a number of possible ways this matter can be resolved without detrimental impacts on our job and service. However, the Department seem unwilling to do this and therefore the dispute remains in the hands of the Commissioner to find a resolution.

Members are advised that In-Order 2008/22 remains in place.

Members are advised that the Code Red also remains in place.

And we are hopeful that the Department's losing streak on this one continues...

Leighton Drury
State Secretary