

Fire Rescue Victoria Act 1958
MINISTERIAL DIRECTION

Dear Commissioner

I write in relation to the involvement of Fire Rescue Victoria (FRV) in proceedings currently before the Fair Work Commission (FWC) (Matter No. 2022/2043), in which the United Firefighters' Union of Australia (UFU) has made an application for the FWC to deal with a dispute under Clauses 1 and Clauses 26 of, respectively, Divisions A and B of the Fire Rescue Victoria Operational Employees Interim Enterprise Agreement 2020 (the Agreement).

In the proceedings, the UFU contends that Clauses 42 and 49 of the respective divisions of the Agreement contain a commitment to the establishment of a firefighters registration board. The Clauses are identical, and are in the following terms.

FRV endorses the establishment of a firefighters registration board. FRV will demonstrate this by letter of endorsement to the UFU secretary.

The UFU, has proposed the establishment of another board, described as a 'permanent' registration board (the proposed board). The dispute concerns the establishment of such a board.

On 17 August 2022, I wrote to you indicating that I am supportive of the establishment of an appropriate scheme for firefighter registration in Victoria. However, I also stated that I consider that Ministerial consent is required, under section 25A(3) of the **Fire Rescue Victoria Act 1958** for FRV to participate in the formation of the proposed board, and for FRV to enter into an agreement with the proposed board (in the form provided to me). I stated that I was not in a position to give my consent, for the reasons set out in my letter.

My letter to you raised concerns about the transparency and oversight of firefighter registration under the proposed Services Agreement, the risks arising from the fact that the proposed Services Agreement would fetter the statutory employment powers of FRV, and the duplication of functions by the proposed board and the Firefighters Registration Board established by the **Fire Rescue Victoria Act 1958**.

The FWC matter is listed for an arbitration hearing before Commissioner Wilson on Monday 29 August 2022. FRV is required to file its submissions and evidence with the FWC in advance of that date.

On 23 August 2022, officers of FRV provided officers of the Department of Justice and Community Safety with a copy of its proposed Outline of Submissions in the proceedings (the 23 August Outline of Submissions). The submissions address a number of matters, including, importantly, whether the FWC has jurisdiction and power to deal with the dispute, given terms of Clauses 42 and 49 of the respective divisions of the Agreement, and the operation of section 595 of the **Fair Work Act 2009** (Cth) (the Jurisdictional Issue).

I understand that FRV has not yet filed a copy of the 23 August Outline of Submissions with the FWC, and that it now proposes not to address, in its submissions, the jurisdictional issue.

It is of critical importance that the FWC have all relevant material before it that goes to whether it has jurisdiction to arbitrate this matter. Particularly as a model litigant, it is appropriate for FRV to raise this Jurisdictional Issue for the FWC's consideration, to avoid leading the FWC into error.

I therefore direct, under section 8 of the **Fire Rescue Victoria Act 1958**, FRV and you, as Acting Fire Rescue Commissioner, to file submissions with the FWC in the same form as the 23 August Outline of Submissions.

Dated 24 August 2022

JACLYN SYMES MP

Attorney-General

Minister for Emergency Services