

IN THE HIGH COURT OF AUSTRALIA, MELBOURNE REGISTRY
ON APPEAL FROM THE FULL COURT OF THE FEDERAL COURT
OF AUSTRALIA

No M160 of 2019

BETWEEN:

MONDELEZ AUSTRALIA PTY LTD
Appellant

- and -

10 AUTOMOTIVE, FOOD, METALS, ENGINEERING, PRINTING AND KINDRED INDUSTRIES
UNION KNOWN AS THE AUSTRALIAN MANUFACTURING WORKERS UNION (AMWU)
First respondent

NATASHA TRIFFITT
Second respondent

BRENDON MCCORMACK
Third respondent

20 MINISTER FOR JOBS AND INDUSTRIAL RELATIONS
Fourth respondent

Mondelez's Chronology



Date of document:	31 January 2020	Telephone:	(02) 9466 5521
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Part I: Publication on the internet

This chronology is in a form suitable for publication on the internet.

Part II: Principal events

Date	Event	Reference
11 April 1994	The third respondent commences employment with the appellant (Mondelez).	<i>Mondelez v AMWU</i> [2019] FCAFC 138 [11] (Judgment Below) at Joint Core Appeal Book (CAB) 10.
6 August 2007	The second respondent commences employment with Mondelez.	Judgment Below [11] at CAB 10.
1 January 2010	Section 96 of the <i>Fair Work Act 2009</i> (FW Act) commences. It entitles all national system employees to “10 days” of paid personal/carer’s leave per year of service.	FW Act s 2.
11 May 2018	The <i>Mondelez Australia Pty Ltd, Claremont Operations (Confectioners & Stores) Enterprise Agreement 2017</i> (Agreement) comes into effect. It provides that the full-time ordinary hours are 36 hours per week. It entitles the second and third respondents (Employees) — who work 12-hour shifts — to 96 hours of paid personal/carer’s leave per year of service.	Judgment Below [9]–[16] at CAB 10–11.

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15 June 2018	<p>A dispute arises as to the personal/carer's leave entitlements of the Employees.</p> <p>Mondelez contends that the Employees are entitled to 96 hours of personal/carer's leave per year (being their entitlement under the Agreement). Mondelez contends that this exceeds their entitlement under s 96 of the FW Act, which it contends is only 72 hours per year.</p> <p>The first, second and third respondents contend that the Employees are entitled to 10 calendar days of personal/carer's leave under s 96 of the FW Act, which is equivalent to 120 hours. This overrides the lower entitlement under the Agreement.</p>	
18 June 2018	Mondelez commences the proceeding below, seeking declarations to the effect that the Employees' personal/carer's leave entitlement under the Agreement exceeds their entitlement under s 96 of the FW Act.	CAB 62 (date of the Originating Application).
21 February 2019	Mondelez's application is heard by the Full Court of the Federal Court (Bromberg, Rangiah and O'Callaghan JJ).	CAB 6.

21 August 2019	By majority (Bromberg and Rangiah JJ, O'Callaghan J dissenting), the Federal Court finds that s 96 of the FW Act entitles national system employees to 10 absences per year, which is equivalent to 120 hours of personal/carer's leave for the Employees. The Court dismisses Mondelez's application.	CAB 60.
13 December 2019	This Court grants special leave to appeal against the Judgment Below.	Order of Gageler and Keane JJ (13 December 2019) at CAB 63.

Friday, 31 January 2020



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