

# ENTERPRISE BARGAINING

Enterprise bargaining is the process of negotiation generally between the employer, employees and their bargaining representatives with the goal of making an enterprise agreement.

An agreement sets out the terms and conditions of employment between an employee or group of employees and one or more employers. Under the national workplace relations system there are two categories of agreements:

- enterprise agreements
- agreement-based transitional instruments.

## **Enterprise agreement**

An enterprise agreement is simply an agreement between two or more national system employers and their employees. Enterprise agreements are negotiated by the parties through collective bargaining in good faith, primarily at the enterprise level.

### Single-enterprise agreement

A single-enterprise agreement is made between a single employer (or two or more single interest employers) and employees employed at the time the agreement is made, who will be covered by the agreement. Single interest employers that are in a joint venture or common enterprise or are related corporation.

### Multi-enterprise agreement

A multi-enterprise agreement is made between two or more employers (that are not all single interest employers) and employees employed at the time the agreement is made and who will be covered by the agreement.

## **What terms must be included in an enterprise agreement?**

An enterprise agreement is an agreement about permitted matters which are:

- Terms about the relationship between each employer and the employees covered by the agreement.
- Terms about the relationship between each employer and any employee organisations who will be covered by the agreement
- Deductions from wages for any purpose authorised by an employee covered by the agreement
- How the agreement will operate.

## **An enterprise agreement must contain the following terms:**

- A nominal expiry date of the agreement which is no longer than four years from the date the Fair Work Commission approves the agreement
- A dispute settlement procedure, which must authorise either the Fair Work Commission or someone else that is independent of those covered by the agreement to settle disputes about any matters under the agreement in relation to terms of a modern award of the National Employment Standards
- A flexibility term that allows for the making of individual flexibility agreements for the purpose of meeting the genuine needs of the employer and employees.
- A consultation term, which requires the employer to consult their employees about any major workplace changes that are likely to have significant effect on them and allows the employees to have representation in that consultation.

There are also terms that cannot be included in an enterprise agreement. Contact **Advantage Partnership Lawyers** to find out what unlawful content.

## **What are the steps to seek approval of an enterprise agreement?**

Once bargaining is complete and a draft enterprise agreement has been made, it must be submitted to a vote by the employees who will be covered by the agreement.

Before a vote can occur for employee approval, the employer must ensure that:

- during the seven day period before voting for the agreement, employees are given a copy of the agreement and any other material incorporated in the enterprise agreement. The employer must also notify employees of the time and place the vote will occur and the voting method that will be used
- they take all reasonable steps to ensure that the terms of the enterprise agreement, and the effect of those terms, are explained to the employees, and
- the explanation is provided in an appropriate manner.

Employees must endorse the agreement by voting for it. The vote cannot occur until at least 21 days from the date employees were notified of their right to have a bargaining representative.

## **When is a vote successful?**

The vote is successful when one of the following occurs:

- Single-enterprise agreement - a majority of the employees of the employer (or employers if there is more than one single interest employer) who cast a valid vote endorse the agreement.
- Multi-enterprise agreement - a majority of the employees of at least one of the employers, who cast a valid vote endorse the agreement. A multiple enterprise agreement only covers employers whose employees have voted to approve the agreement. Therefore, after the vote the agreement must be varied to remove those employers whose employees have not voted to approve the agreement.

There needs to be an application for proposed enterprise agreement lodged with the Fair Work Commission. At **Advantage Partnership Lawyers** we can help you lodge and prepare all accompanying documentation.

### **What are the benefits of an enterprise agreement?**

- An enterprise agreement can provide certainty of entitlements and consistency in the terms and conditions of employment adopted across the organisation in circumstances where a number of awards could apply to various categories of staff.
- An enterprise agreement initiated by you enables terms and conditions of employment suitable to your business to be advanced and limits the implementation of a union template agreement
- Classification structures can be developed which suit the needs of the organisation and which allow staff to work across different parts of the organisation without being limited by award coverage and classification structures of separate awards.
- Payroll resources can be streamlined e.g. arranging pay increases at a time that suits the payroll calendar, payroll implementing one agreement rather than multiple awards.
- Employers can develop their own wages policy and have more control over payroll and provide some budget certainty for the period of the agreement and beyond, whereas there can be some uncertainty about the level of future wage increases granted to employees through the award system.
- The organisation can develop terms and conditions that are suited to its own operations and better control human resources matters.

- Staff involvement in the development of an enterprise agreement can be used to identify issues that will enhance employee commitment to the organisation.
- The development of an agreement at a time that suits the organisation is preferable to the situation that may arise if the union seeks an agreement at a time when the organisation is not prepared or has limited resources to devote to the process.

**Contact Advantage Partnership Lawyers today to make an appointment so that we can come to your office and give you a quote regarding workplace agreements.**