

Enterprise Agreements

Enterprise agreements are collective agreements made at an enterprise level between employers and their employees. They cover the terms and conditions of employment of the employees involved.

The terms of an enterprise agreement must not be less beneficial to an employee than the National Employment Standards (NES) and overall must be better than the relevant modern award.

There are three types of agreements:

- Single enterprise agreements - covering an existing enterprise or business;
- Multi-enterprise agreements – covering more than one business or enterprise; and
- Greenfields agreements – covering new enterprises.

An enterprise agreement **may** include terms relating to:

- Rates of pay;
- Penalty rates and overtime ;
- Allowances;
- Standard hours;
- Personal and annual leave;
- Deductions from wages for any purpose that is authorised by the employee;
- Any matters pertaining to the relationship between the employer and the employees;
- Matters pertaining to the relationship between the employer and employee organisations covered by the agreement; and
- How the agreement will operate.

An enterprise agreement **must** include:

- A dispute resolution term that allows disputes under the agreement and/or the NES to be referred to the Commission or an independent person, and for an employee who is party to the dispute to appoint a representative at any stage of the procedure;
- A flexibility term that allows an employee and his or her employer to agree to an individual arrangement varying the effect of the enterprise agreement;
- A consultation term that requires employers to consult with employees if there are major changes to the business or a change to their regular roster or ordinary hours of work;
- A nominal expiry date which is the particular date when the agreement will expire; it must be within four years of when the Commission approves the agreement; and
- A coverage term that explains who the agreement covers.

An enterprise agreement must **not** include:

- Discriminatory terms;
- Terms that breach the general protections provisions in Part 3-1 of the Fair Work Act 2009;
- Terms that require a bargaining services fee to be paid;
- Terms inconsistent with the unfair dismissal provisions in the Fair Work Act;
- Terms that modify the law relating to industrial action in Part 3-3 of the Fair Work Act;
- Terms relating to right of entry which are not in accordance with Part 3-4 of the Fair Work Act;
- A term that would enable an employee or employer to 'opt out' of coverage of the agreement ; and

- A term that requires superannuation contributions for default fund employees to be made to a superannuation fund, unless that fund:
 - Offers a MySuper product;
 - Is an exempt public sector scheme, or
 - Is a fund of which a relevant employee is a defined benefit member.

Steps:

1. Notify Employees

- The employer must give all employees who will be covered by the agreement a copy of the Notice of Employee Representational Rights within 14 days of deciding to negotiate an agreement.
- The notice explains an employee has the right to be represented by a person or an organisation in agreement negotiations. An employee who is a union member has that union as their default bargaining representative. If an employee wants to be their own bargaining representative or appoint someone other than their union, then authorisation is required in writing.

2. Bargaining

- Bargaining is the process by which the employer and employees negotiate the terms and conditions of an agreement.
- Those involved in the bargaining process, including bargaining representatives, are required to bargain in good faith.

3. Vote

- Once the employer and employees have finished negotiating the agreement, a vote must be conducted. All the employees who will be covered by the agreement can vote for it.

4. Approval

- Within 14 days of the successful vote, a bargaining representative must lodge the enterprise agreement with the Fair Work Commission for approval.
- The Commission must be satisfied that each award-covered employee and each prospective award-covered employee would be better off overall under the agreement than if the relevant modern award applied.