

Assisting parties to make compliant agreement applications



Education and Employment Legislation Committee

Tabled Doc #: 4
Tabled by: Ms Bernadette O'Neill
Date: 20/02/19

Index

About the Guide.....	1
Introduction	2
The Commission's approval process	2
Agreement Triage Process.....	3
Changes to the statutory framework	4
Current timeliness.....	4
Improvements to the Agreement Approval Process.....	6
Next steps.....	8
Attachment A: Applications to approve single enterprise agreement – Common issues and defects* ..	9
Attachment B: s. 185 applications to approve agreements finalised in 2018 by industry	28
Attachment C: Enterprise Agreement User Group – List of organisations invited to participate	31

About the Guide

1. This guide provides information to assist parties to make enterprise agreements and lodge applications for their approval that comply with the *Fair Work Act 2009* (Cth) (the FW Act) and other relevant legislation. Compliant agreements and associated applications are able to be dealt with more quickly by the Commission.
2. The information focuses on the making of single enterprise agreements and subsequent approval applications and:
 - introduces the issues concerning agreements and approval applications;
 - outlines the Commission's process for dealing with applications to approve agreements;
 - explains the agreement triage process;
 - summarises changes to the statutory framework;
 - provides information about how long the Commission takes to approve agreements; and
 - sets out recent and planned improvements to the agreement approval process.
3. The guide also includes information on the most common issues and defects found in agreements and approval applications and information to help avoid them.

Introduction

4. The making and approval of agreements involves some complexity. The Commission is required to ensure that each agreement and approval application fully complies with the procedural and substantive requirements of the FW Act. Additionally, from time to time decisions of the Commission, the Federal Court of Australia and the High Court of Australia mean that the Commission is required to apply the FW Act in a different way. This can mean that following such a decision, approval applications are required to include additional information before a Member can be satisfied that they should be approved. For example to address the issue raised in the One Key decision¹, the Commission may ask for information regarding how the effect of the terms of an agreement were explained to the employees.
5. Most agreements and approval applications either do not fully comply with the statutory requirements at the time they are lodged with the Commission or require additional information to be provided to assess compliance (non-compliant agreement applications). These issues and defects give rise to delays in processing and are the main reason for the decline in the timeliness with which approval applications have been dealt with. Whilst timeliness performance is improving, the Commission seeks to help parties make and lodge compliant agreements and approval applications, so that they can be dealt with more quickly.
6. The Commission could deal with non-compliant agreements and approval applications more quickly by dismissing them; however this would not assist the parties who have made an enterprise agreement. Instead, the Commission seeks to assist the parties by seeking further information and/or undertakings, in order to be able to approve the agreement. Whilst this takes time it is less disruptive to the parties than having to recommence bargaining following the dismissal of their approval application.

The Commission's approval process

7. Agreement approval applications constitute a significant part of the Commission's work. The Commission has dealt with between 5200 and 8599 approval applications per year since 2011. In 2017–18, 5287 approval applications were lodged with the Commission. Of these, 3803 were approved, 42 were not approved, and 794 were withdrawn.²
8. The overwhelming majority of approval applications are for single-enterprise agreements.
9. After an approval application is lodged with the Commission:
 - details of each application and a link to the agreement are published on the Commission's '[Agreements in progress](#)' webpage within 2 working days of lodgment;
 - all bargaining representatives identified are sent an email confirming the approval application has been lodged and outlining their obligations to serve copies on other persons³. Parties are notified that they have 7 business days from the date of lodgment of the application to make any submissions supporting or objecting to approval of the agreement; and

¹ *CFMEU v One Key Workforce Pty Ltd* [2017] FCA 1266

² Not all applications lodged in 2017–18 were determined in the same reporting period

³ See *National Union of Workers v Sigma Company Limited T/A Sigma Healthcare* [2017] FWCFB 3892

- a Commission Member may then determine whether the agreement can be approved having regard to materials lodged and any further information requested by the Commission.

10. Most approval applications are dealt with 'on the papers', that is, without a hearing. Since 1 July 2017, fewer than 5% have required a hearing. However, a Member may consider it necessary or desirable to conduct a hearing, and an interested party may also request a conference or hearing at any time during the approval process. Any requests are considered by the Member dealing with the application.
11. Any employer, employee or union⁴ that is a bargaining representative for an agreement is entitled to intervene and make submissions in relation to an approval application. However, a union that is not a bargaining representative but merely represents employees who could be covered by the agreement does not generally have a *right to be heard* in relation to the approval of an agreement. Whether such an organisation is heard will depend on the circumstances of each case.⁵ Furthermore, the Commission may inform itself by hearing from any person or organisation, whether or not the person or organisation has 'a right to be heard'.
12. If the Commission approves an enterprise agreement, a copy of the approval decision and the approved agreement, along with any undertakings accepted by the Commission, are published on the Commission's website.⁶ If the Commission decides not to approve an agreement, a copy of the decision is published on the website. In both cases, copies of the decision are emailed to all the parties involved.

Agreement Triage Process

13. From late 2016 all approval applications are determined by Members with the assistance of an administrative 'agreement triage' process. The triage process is designed to increase rigour in assessing all agreements and approval applications in order to increase consistency in the decision-making process for these applications.
14. The triage process was adopted following a positive independent review of an initial Pilot.⁷
15. Consistency in decision-making is an important element of access to justice. Broadly speaking, tribunal decision makers should reach consistent decisions on cases with common facts and circumstances, within the parameters of the discretion conferred upon them by the legislation.
16. Rigour in the decision making process is similarly important. The consequences of failing to identify either a technical or a substantive defect in the agreement making process or the agreement itself are significant. An agreement invalidly approved exposes all parties to it to a collateral attack in the courts, creating uncertainty as to whether the agreement is a legal nullity.

⁴ A union with members who will be employees covered by a non-greenfields agreement, will generally be a bargaining representative for the agreement unless the members appoint another person as their bargaining representative (FW Act s.176)

⁵ *Construction, Forestry, Mining and Energy Union v Collinsville Coal Operations Pty Limited* [2014] FWCFCB 7940 at [48]–[75]; see also *United Voice v Sodexo Australia* [2016] FWCFCB 8531; *Construction, Forestry, Mining and Energy Union v Ron Souton* [2016] FWCFCB 8413 and *Construction, Forestry, Mining and Energy Union v SESLS Industrial Pty Ltd* [2017] FWCFCB 3659; *The Australian Workers' Union v Oji Foodservice Packaging Solutions (Aus) Pty Ltd* [2018] FWCFCB 7501

⁶ FW Act s.601(4)

⁷ The [report](#) of the review of the agreement triage pilot is available on the Commission's website

17. The triage process involves a team of staff conducting a comprehensive analysis of approval applications. The analysis includes completion of a [checklist](#) which sets out the various statutory requirements and may involve modelling and analysis that compares entitlements under the agreement and the award based on anticipated rosters.⁸ At the direction of the Member considering the application, either triage or Chambers staff may request further information or undertakings from the applicant.
18. At all times the judgment as to whether an agreement should be approved, or whether an undertaking should be sought or accepted is made by the Member who is dealing with the application, to be exercised in accordance with their oath of office and the requirements of the Act. However, the triage process assists Members to exercise their function in a consistent and rigorous way.
19. Analysis of the approval applications lodged in the past 12 months identifies a number of common issues and defects which are set out in [Attachment A](#), together with information about how to avoid them.

Changes to the statutory framework

20. The *Fair Work Amendment (Repeal of 4 Yearly Reviews and Other Measures) Act 2018*⁹ (Amending Act) commenced on 12 December 2018.
21. Prior to this date, the Commission had no capacity to approve agreements where there had been certain errors in the agreement making process under the FW Act. These errors included minor defects in relation to the content or form of the Notice of Employee Representational Rights and failure to meet some required timeframes. Non-compliance with such requirements is commonly the reason why applicants withdraw approval applications (794 approval applications were withdrawn in 2017–18).
22. The Amending Act allows Members of the Commission to overlook some minor procedural or technical errors when approving enterprise agreements.¹⁰
23. The Commission acted promptly upon passage of the Amending Act, and convened a Full Bench to provide parties with guidance as to the proper construction of the new s.188(2).
24. A Full Bench decision issued on 16 January 2019¹¹ determined that a Member may be satisfied that an agreement was genuinely agreed to despite a minor technical or procedural error if the error was not likely to have disadvantaged the employees. Whether an error was minor or whether there was likely to be disadvantage must be considered on a case-by-case basis depending on the circumstances of the matter. At paragraph [17] of the decision, the Full Bench sets out the relevant considerations for the application of the new power.

Current timeliness

25. The Commission's [Annual Report](#) provides comprehensive information concerning the decline in timeliness of approving agreements during 2017–18.
26. In 2018, 5235 applications were lodged under s.185 of the FW Act for approval of an enterprise agreement, with 621 lodged in December.

⁸ The proforma [checklist](#) is published on the Commission's website

⁹ Fair Work Amendment (Repeal of 4 Yearly Reviews and Other Measures) Bill 2017

¹⁰ Revised Explanatory Memorandum re Fair Work Amendment (Repeal of 4 Yearly Reviews and Other Measures) Bill 2017

¹¹ Re Huntsman and others [\[2019\] FWC FB 318](#)

27. The Parliamentary Budget Papers include a Key Performance Indicator for agreements approved without undertakings of a median of 32 days from lodgment.
28. The timeliness for approving agreements with and without undertakings has improved substantially since 1 July 2018. Agreements lodged and approved without undertakings between 1 July 2018 to 31 December 2018 have been finalised within a median of 22 days, compared to 32 days in 2017–18, as set out below.

	Median days from lodgment	
	2017–18	1 July–31 December 2018
Agreements approved without undertakings	32	22
All agreements approved	76	57

29. This represents a 30% improvement for agreements approved without undertakings and a 25% improvement for all agreements lodged and approved during the period.
30. In addition to this performance measure, the Commission has adopted more rigorous timeliness benchmarks which are designed to encourage the lodgment of compliant agreements and approval applications.
31. The additional benchmarks in force since 1 July 2018 are:

	Benchmark time from lodgment to finalisation	
'Simple' agreements	50% finalised within 3 weeks	100% finalised within 8 weeks
'Complex' agreements	50% finalised within 10 weeks	100% finalised within 16 weeks

- A 'simple' agreement means the agreement and approval application fully comply with statutory requirements when lodged.
- 'Complex' agreements are all approval applications except 'simple agreements'

32. Between 1 July and 31 December 2018, 'simple' agreements have been approved within a median of 17 days; with 68% of 'simple' agreements approved within 3 weeks from lodgment, and 93% within 8 weeks of lodgment as shown in the table below:

	Benchmark target	
s.185 application for approval	50% finalised	100% finalised
Simple agreements	3 weeks = 68%	8 weeks = 93%
Complex agreements	10 weeks = 32%	16 weeks = 64%

33. Whilst timeliness has improved substantially since 1 July 2018, the Commission is meeting some but not yet all of these additional benchmarks as at 31 December 2018. Agreements and approval applications that are not fully compliant with the statutory requirements at lodgment continue to take longer to deal with compared to 'simple agreements'. Non-compliant agreements and approval applications require parties to provide further information and in many instances, proffer one or more undertakings to address the identified issues.

Improvements to the Agreement Approval Process

34. The Commission has already taken a number of steps to assist parties lodge compliant agreements and approval applications, and intends to introduce further initiatives to improve timeliness performance by increasing the level of compliance at lodgment.

Common defects

35. Analysis of finalised approval applications reveals the common mistakes or defects that have been made. [Attachment A](#) sets out these common defects and provides information as to how to avoid them. This information is also available on the Commission's website. Agreements and approval applications in certain industries are also more likely to contain defects. [Attachment B](#) lists industries based on the proportion of agreements finalised in 2018 which were able to be approved without undertakings.

Agreements User Group

36. The Commission has established a user group comprising the employers and organisations that lodged, or are associated with, the greatest number of agreement applications in 2018. The user group met for the first time on 19 February 2019. [Attachment C](#) lists the organisations that have been invited to participate in the user group.

37. This consultative forum will enable frequent users to provide feedback about the Commission's processes and to provide input into future initiatives. Following the initial meeting, the participants also received tailored feedback as to the common mistakes found in their organisation's agreements and approval applications.

Information resources and tools

38. The Commission has made available the following information resources and tools on the Commission's website, to assist parties lodge compliant agreements and approval applications:
- [Notice of Employee Representational Rights Guide](#) and [Notice Tool](#) (which assists employers to prepare a compliant Notice);
 - [Making a Single Enterprise Agreement – Step by Step Guide](#);
 - [Single Enterprise Agreement Legislative Checklist](#) (the proforma checklist completed by agreements triage staff);
 - [Single Enterprise Agreement Date Calculator](#) (which assists parties to comply with the various timeframes when making and lodging an enterprise agreement);
 - [Enterprise Agreements Benchbook](#) (a guide to the legislation and key principles in case law);

- [10 tips for agreement making](#) (a list of tips to assist employers when making and lodging agreements); and
- [NES precedence clause](#) (an example of a term that could be included in an agreement to avoid the need for an undertaking to address any inconsistency with the NES, set out in [Attachment A](#)).

39. The [Agreements in progress](#) webpage is the central location for finding information concerning all agreement approval applications. As from 7 February 2019, applications to vary agreements are also listed on this page.

‘Hot Button’

40. Parties are also able to seek an update on the progress of an approval application lodged more than eight weeks earlier, and to have the application expedited. Enquiries can be emailed to agreementsprogressenquiry@fwc.gov.au.

Change to Triage process

41. In addition to providing the Member dealing with an approval application with the comprehensive analysis described in paragraph 17, until recently, triage staff also dealt with follow-up communication with the parties including any requests for additional information or undertakings requested by the Member.

42. In order to further improve timeliness, a modification has been made to the triage process in that correspondence to parties seeking further information or requesting undertakings will now mostly be sent from the relevant Member’s chambers rather than from the agreements triage team. This change should streamline the communication process and enable the triage staff to focus on completing the analysis more quickly, enabling approval applications to be dealt with more quickly overall.

Further initiatives

‘Smart form’

43. The Commission will shortly be showcasing to the Agreements User Group a prototype ‘smart form’ for approval applications. As an applicant completes the form it will alert them if certain timeframes specified in the FW Act have not been met, so that they are aware of any such issues before completing the application.

Stakeholder engagement / Outreach program

44. During 2018, Members of the Commission, as well as senior staff from the agreements triage team met with representatives from many organisations that are involved in the agreement-making process.

45. While Members cannot discuss the merits of an individual application at these meetings, they are available to discuss the process and common defects that arise in agreements and approval applications. If you would like to arrange a meeting with a Member of the Commission please contact the chambers of Commissioner Lee at Chambers.Lee.C@fwc.gov.au.

46. The Commission is able to provide tailored feedback and education materials to parties in particular sectors, identifying common defects occurring in their agreements and approval applications. This tailored information is available upon request.

Next steps

47. Any employer, individual or organisation wishing to participate in the initiatives outlined above should contact the Commission at member.assist@fwc.gov.au.

Attachment A: Applications to approve single enterprise agreement – Common issues and defects*

Defect or issue	Requirement	Regulation/source**
<p>1. Agreement making – the National Employment Standards (NES)</p> <p>The National Employment Standards (NES) are 10 minimum employment standards that apply to all national system employees. Before approving an agreement, the Commission must be satisfied that the terms of the agreement do not exclude the NES or any provision of the NES. Agreements can include terms that are the same or substantially the same as the NES, or that supplement the NES by providing more favourable entitlements. Terms in agreements can also interact with the NES in certain permitted situations (such as to allow the cashing out of annual leave).</p>	<p>1.1 Definition of shiftworkers</p>	<p>Part 2-2 (including ss.55 & 56) & ss.186(2)(c) & 253 FW Act</p>
<p>The agreement does not describe or define an employee as a shiftworker for the purposes of the NES, but the modern award that covers the employee does so</p>	<p>An agreement must define or describe an employee as a shiftworker for the purposes of the NES, if the modern award does so.</p>	<p>ss.187(4) & 196 FW Act, Form F17 Q2.16</p>

TIP: When defining those employees who are entitled to an extra week of annual leave use wording such as:

“For the purpose of the additional week of annual leave provided for in the NES, a shiftworker is {insert relevant definition of shiftworker as found in the award}”

* The information in this table is for general guidance only and is not comprehensive. The Commission does not provide legal advice and users must refer to the relevant regulation. While the Commission has made every effort to ensure the information is accurate, the Commonwealth does not guarantee, and accepts no legal liability whatsoever arising from or connected to, the accuracy, reliability, currency or completeness of this information.

** FW Act means the *Fair Work Act 2009* (Cth)

FW Regs means the *Fair Work Regulations 2009* (Cth)

FW Rules means the *Fair Work Commission Rules 2013*

Defect or issue	Requirement	Regulation/source**
-----------------	-------------	---------------------

<p>1.2 Annual leave</p>	<p>NES entitlements –</p> <ul style="list-style-type: none"> An employee (other than a casual employee) is entitled to 4 weeks' paid annual leave (5 weeks' for shiftworkers) in the NES a 'week' of annual leave is an authorised absence from work during the working days falling in a seven day period (see <i>Construction, Forestry, Mining and Energy Union v Glendell Mining Pty Limited</i> [2017] FCAFC 35 and <i>Mondelez Australia Pty Ltd</i> [2018] FWC 2140). Note: this issue may be considered in the Federal Court proceedings (<i>Mondelez Australia Pty Ltd v AMWU & others</i> (VID 731/2018)). Annual leave accrues progressively during a year of service A cashing out term in an agreement must meet the requirements specified in s.93(2). (The safeguards in the cashing out provision in the relevant modern award should also be considered, as this will be relevant to assessing whether the agreement passes the BOOT). 	<p>Annual leave entitlements in the agreement are expressed in hours or days (rather than weeks) and equate to less than 4 weeks' paid annual leave eg the agreement states that 'a day worker's annual leave entitlement is 152 hours', but provides for working days of over 7.6 hours</p> <p>The agreement provides that annual leave accrues at a certain point in time eg 'annual leave will be credited on the anniversary of your appointment'</p> <p>The agreement's cashing out provisions do not contain the safeguards found in the NES</p>
-------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

ss.93(1) and (2) FW Act

s.87(2) FW Act

ss.86 & 87(1) FW Act

Defect or issue	Requirement	Regulation/source**
-----------------	-------------	---------------------

1.3 Personal/carer's leave	<p>NES entitlements –</p> <ul style="list-style-type: none"> • An employee (other than a casual employee) is entitled to 10 days' paid personal/carer's leave for each year of service and 2 days' unpaid carer's leave for each occasion (provided paid personal/carer's leave is not available) • In the NES a 'day' of personal/carer's leave is an authorised absence from the working time in a 24 hour period (see <i>Construction, Forestry, Mining and Energy Union v Glendell Mining Pty Limited</i> [2017] FC AFC 35 and <i>Mondeluz Australia Pty Ltd</i> [2018] FWC 2140). Note: this issue is currently the subject of legal proceedings before the Federal Court (<i>Mondeluz Australia Pty Ltd v AMWU & others</i> (VID 731/2018)). • Personal/carer's leave accrues progressively during a year of service • All accrued personal/carer's leave may be taken as carer's leave • Casual employees are entitled to 2 days' unpaid carer's leave per occasion 	<p>ss.96(1), 102 & 103(3) FW Act</p> <p>s.96(2) FW Act</p> <p>s.97(b) FW Act</p> <p>s.102 FW Act</p>
----------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------

The personal/carer's leave entitlement in the agreement is expressed in hours rather than as days, and equates to less than the NES entitlement

The agreement provides that personal/carer's leave accrues at a certain point in time eg on the anniversary of your appointment

The agreement limits the amount of personal leave that can be taken as carer's leave

The agreement does not provide carer's leave for casual employees

Defect or issue	Requirement	Regulation/source**
-----------------	-------------	---------------------

1.4 Compassionate leave

<p>Compassionate leave in the agreement is expressed as an entitlement per year rather than per occasion</p> <p>The agreement does not provide compassionate leave for casual employees</p>	<p>NES entitlements –</p> <ul style="list-style-type: none"> • An employee (other than a casual employee) is entitled to 2 days' paid compassionate leave for each occasion • Casual employees are entitled to 2 days' unpaid compassionate leave for each occasion 	<p>ss.104-106 FW Act</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	--------------------------

<p>Parental leave provisions in the agreement provide lesser entitlements than the NES eg the adoption leave clause does not allow leave to be taken in relation to the placement of any child who is under 16 years of age (s.68)</p> <p>The agreement does not permit an employee to request a further 12 months' parental leave in addition to the first 12 months of leave (s.76)</p>	<p>NES entitlements –</p> <ul style="list-style-type: none"> • The parental leave provisions in an enterprise agreement must not be detrimental to an employee in any respect, when compared to the NES • An employee may request their employer to agree to an extension of unpaid parental leave for a further period of up to 12 months immediately following the end of the 'available parental leave period' (which is 12 months, less any periods specified in s.75(2)) 	<p>s.76 FW Act</p> <p>see ss.67-85 FW Act</p>
-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------

Defect or issue	Requirement	Regulation/source**
-----------------	-------------	---------------------

<p>1.6 Public holidays</p>	<p>The NES includes as public holidays days or part-days declared or prescribed by State or Territory law as public holidays, and substituted public holidays under State or Territory laws.</p> <p>Any definition or list of all public holidays in an agreement must include 'holidays declared or prescribed by, or under, a law of a State or Territory' in which the agreement operates.</p>	<p>s.115 FW Act</p>
----------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------

<p>1.7 Notice of termination and redundancy</p>	<p>NES entitlements –</p> <ul style="list-style-type: none"> • The NES sets out requirements for notice of termination by an employer and redundancy pay. An agreement must provide the same or more beneficial termination and redundancy entitlements compared to the NES • Apprentices must not be excluded from notice of termination requirements in the NES • An agreement cannot remove an employee's entitlement under the NES to notice of termination or payment in lieu where their employment is terminated by the employer. See <i>Boguslaw Bienias v Iplex Pipelines Australia Pty Limited t/a Iplex Pipelines Australia</i> [2017] FWCFB 38 for guidance on when an employee has abandoned their employment 	<p>The agreement provides lesser termination or redundancy entitlements than in the NES</p> <p>Apprentices have been excluded from notice of termination entitlements</p> <p>Abandonment of employment</p> <p>The agreement states that an employee will forfeit their right to payment on termination of employment if they do not attend work for a given number of days</p>
-------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Defect or issue	Requirement	Regulation/source**
<p>1.8 Flexible working conditions</p>	<p>The agreement limits the right to request part-time employment to the first year following a period of maternity leave</p>	<p>Under the NES, employees who have worked for their employer for a continuous period of at least 12 months (and certain casual employees) are entitled to request flexible working conditions (including part-time hours) where the employee:</p> <ul style="list-style-type: none"> • is a parent, or has responsibility for the care of a child who is of school age or younger • is a carer, as defined • has a disability • is 55 or older • is experiencing violence from a member of their family, or • provides care or support to a member of their immediate family or household who requires care or support because they are experiencing violence from the member's family
<p>s.65 FW Act</p>	<p>TIP: Many issues in relation to the NES may be addressed by including an 'NES precedence' term in the agreement that provides that in the event of any inconsistency with the NES, the more beneficial term will apply to the extent of that inconsistency. An example of such a clause is:</p> <p>"This Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between this agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency."</p>	

Defect or issue	Requirement	Regulation/source**
<p>2. Agreement making – the Better Off Overall Test (BOOT)</p>	<p>ss.186(2)(d) & 193 FW Act</p>	<p>An enterprise agreement passes the BOOT if the Commission is satisfied, at the test time, that each award covered employee, and each prospective award covered employee, would be better off overall if the agreement applied to the employee than if the relevant modern award applied to the employee. It is not sufficient that a majority of the employees would be better off.</p> <p>Performing the BOOT requires the identification of those terms of an agreement that are more beneficial and those that are less beneficial to an employee than the relevant award. An agreement may pass the BOOT even if some award entitlements have been reduced, as long as overall those reductions are more than offset by the benefits of the agreement. Each employee must be <i>better off</i> under the agreement, not just receive benefits equivalent to what they would have received under the relevant award.</p> <p>Where award entitlement has no counterpart in the agreement or the corresponding entitlement under the agreement is less beneficial or more restricted in application than in the award, this will affect the Commission's assessment of whether the agreement passes the BOOT.</p>
<p>2.1 Reduced or omitted award entitlements</p>	<p>Some examples of omitted award entitlements:</p> <ul style="list-style-type: none"> • Casual and part-time employment entitlements including: <ul style="list-style-type: none"> ▪ entitlement to overtime ▪ minimum engagement periods • Allowances • Overtime and shift penalties, including payment of any accrued TOL (time off instead of overtime) accrued on termination • Cashing out annual leave safeguards • Rates of pay for juniors, apprentices, trainees or under the Supported Wage System 	<p>When performing the BOOT, the Commission will consider whether any entitlement under a relevant award is reduced or omitted, or its application is more restricted, under the agreement.</p>

Defect or issue	Requirement	Regulation/source**
<p>2.2 Loaded rates</p> <p><i>TIP: Make sure all award conditions that are excluded from the agreement are identified in Q3.4 of the Form F17. The Commission must consider all award entitlements, even if the enterprise does not presently operate in a way where all entitlements are envisioned. For example, if an agreement does not include weekend rates of pay provided in the award because the enterprise does not currently open on weekends, the employer may be requested to give an undertaking to pay the relevant award rates if the enterprise were to begin operating on weekends in the future.</i></p>	<p>An enterprise agreement can include 'loaded rates' of pay which compensate for benefits under the relevant modern award that are not separately identified in the agreement. Typical award benefits that may be incorporated into a loaded rate include allowances, penalties and overtime.</p> <p>When considering the BOOT the Member must be satisfied that all employees will be better off under the agreement working any pattern of hours permitted by the agreement. The Commission is required to not just consider current actual working arrangements in assessing the BOOT: see <i>Loaded Rates Agreements</i> [2018] FWCFB 3610.</p> <p>In the Loaded Rates case, the Commission found there is difficulty in establishing a loaded rate structure for casual employees which is capable of passing the BOOT.</p>	<p>See SDA v Beechworth Bakery Employee Co Pty Ltd [2017] FWCFB 1664 and Aldi Foods Pty Limited as General Partner of Aldi Stores (A Limited Partnership) v Shop Distributive & Allied Employees Association & Anor [2017 HCA 53]</p>
<p>TIP: Including a reconciliation term in an agreement that provides for an audit or reconciliation of employees' earnings under the agreement compared to what their earnings would have been under the relevant modern award may sometimes be useful however the term must specify:</p> <ul style="list-style-type: none"> • that reconciliations will be carried out in a timely manner and, • if a shortfall is identified, the requirement for the employer to compensate the employee must be enforceable. <p>Any shortfall paid as a result of the reconciliation must ensure the employee is better off and not just "no worse off". That is, the compensation cannot merely equal the amount an employee would have been entitled to under the award.</p>		

Defect or issue

Requirement

Regulation/source**

3. Agreement making – Mandatory terms

All agreements must include a coverage term; a nominal expiry date; a flexibility term; a consultation term and a dispute settlement term.

3.1 Dispute settlement term

The agreement does not include a dispute settlement term that meets the requirements in the FW Act and FW Regs eg it does not expressly:

- allow settling disputes in relation to the NES
- allow the representation of employees in a dispute
- provide for the Commission or another independent person to settle disputes

The dispute settlement term in an agreement must:

- provide a procedure to settle disputes about any matters arising under the agreement and in relation to the NES; and
- require or allow the Commission or another independent person to settle such disputes; and
- allow for representation of employees if there is a dispute.

The model term in Schedule 6.1 of the FW Regs may be used. If a term is not included or does not meet the FW Act's requirements, the Commission must reject the agreement or require an undertaking.

TIP: Download the model term here:

[Model term for dealing with disputes for enterprise agreements](#)

Defect or issue	Requirement	Regulation/source**
<p>3.2 Flexibility and consultation terms</p>	<p>A flexibility term allows an employer and employee to make an individual flexibility arrangement (IFA) which varies the effect of terms of the agreement, in order to meet their genuine needs. A consultation term requires the employer to consult with employees about: a major workplace change that is likely to have a significant effect on the employees; or a change to their regular roster or ordinary hours of work.</p> <p>Agreements may use the model terms in Schedules 2.2 and 2.3 of the FW Regs.</p>	<p>Flexibility term - ss.202-203 FW Act, reg 2.08 & Sch 2.2 FW Regs, Form F17 Q2.15</p> <p>Consultation term - s.205 FW Act, reg. 2.09 & Sch 2.3 FW Regs, Form F17 Q2.15</p>
<p>The agreement does not include a flexibility term or a consultation term that meets the requirements in the FW Act and Regs.</p> <p>An agreement may contain a flexibility term that does not provide for the employer or employee to terminate an IFA by giving not more than <u>13 weeks'</u> notice.</p>	<p>An agreement must contain a flexibility term that complies with the requirements in ss.202 and 203 of the FW Act, and a consultation term that complies with s.205 of the FW Act.</p> <p>A flexibility term must provide for the employer or employee to terminate an IFA by giving not more than <u>28 days'</u> notice.</p> <p>Where an agreement does not include a flexibility or consultation term or includes a non-compliant term, the model terms will apply. However, it may take longer to process an agreement where the Commission must decide whether a flexibility or consultation term in the agreement is compliant in all respects.</p>	<p>TIP: Download the model terms here:</p> <p>Model flexibility term</p> <p>Model consultation term</p>

Defect or issue	Requirement	Regulation/source**
-----------------	-------------	---------------------

4. Agreement making - Other terms of the agreement

<p>4.1 Nominal expiry date</p>	<p>The agreement states that the nominal expiry date is 4 years from commencement of operation of agreement</p>	<p>The nominal expiry date of an agreement must be no more than 4 years after the date the agreement was approved by the Commission. As the earliest commencement date of an agreement is 7 days after it is approved, a nominal expiry date of 4 years from commencement will exceed this.</p> <p>ss.54(1) & 186(5) FW Act, Form F17 Q2.1</p>
--------------------------------	-----------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

TIP: Make your nominal expiry date 4 years from the date of approval

<p>4.2 Unlawful terms</p>	<p>An agreement cannot include any unlawful terms such as discriminatory or objectionable terms, a term that is inconsistent with the industrial action provisions of the FW Act or a term that provides for a right of entry other than in accordance with the Act.</p> <p>The Commission will review agreements for unlawful content and cannot approve an agreement that contains unlawful terms.</p> <p>Examples of unlawful terms</p> <ul style="list-style-type: none"> the agreement includes a superannuation default fund term that specifies a fund that does not offer a MySuper product the agreement contains terms that deal with the rights of officials or employees of employee organisations to enter the employer's premises other than in accordance with Part 3-4 of the FW Act 	<p>ss.186(4), 194, 195, 195A, 253(1)(b) & 253(2) FW Act, Form F17 Q2.14</p> <p>ss.186(4) & 194(h) FW Act, Form F17 Q2.14</p> <p>ss.186(4), 194(f) & 194(g) FW Act, Form F17 Q2.13</p>
---------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Defect or issue	Requirement	Regulation/source**
<p>4.3 Incorporating the award into an agreement</p> <p>The agreement states that it 'should be read in conjunction with the award' or uses other language which does not clearly indicate whether the parties intend for the award to be incorporated or not</p>	<p>The agreement should clearly state whether or not the award is incorporated into the agreement. If the award is incorporated into the agreement, the agreement should make clear whether the agreement or award clause will apply where the clauses are inconsistent in any way. Otherwise, it may be unclear to the Commission whether the employees properly understood the terms of the agreement at the time of voting for it, and how the Commission is to apply the BOOT.</p>	<p>TIP: If the agreement relies on provisions from an award, make it clear that the agreement <u>incorporates</u> either those provisions or the entire award (rather than 'is to be read in conjunction with the award').</p>

Defect or issue	Requirement	Regulation/source**
-----------------	-------------	---------------------

5. Agreement making – Pre-approval requirements

In deciding whether to approve an agreement, the Commission will consider whether the prescribed pre-approval steps, including the provision of a valid notice of employee representative rights (NERR), were taken in accordance with statutory timetables.

Since 12 December 2018, the Commission may be satisfied that an agreement has been genuinely agreed to, despite minor procedural or technical errors in relation to certain pre-approval requirements including the form of the NERR and certain legislative timetables, if it is satisfied that the employees covered by the agreement were not likely to have been disadvantaged by the errors. This will be considered on a case-by-case basis depending on the circumstances of the matter (see: [Re Huntsman and others \[2019\] FWCFB 318](#)).

TIP: Where a pre-approval requirement has not been met in full, the Commission may ask for information explaining why a procedural or technical error may be considered minor and not likely to have disadvantaged the employees covered by the agreement.

5.1 Notice of employee representative rights (NERR)

Form and content of NERR

The NERR given by the employer to employees was not in the correct form, eg:

- both paragraphs that refer to a union were omitted

- the scope of the agreement described in the first paragraph of the NERR is narrower than or substantially different to the scope of the agreement

The [Notice of employee representative rights](#) must be in form prescribed in Schedule 2.1 of the FW Regulations

ss.173 & 174 FW Act, reg 2.05 & Sch 2.1 FW Regs, Form F17 Q2.4

Defect or issue	Requirement	Regulation/source**
<p>Provision of NER</p> <p>The employer did not take all reasonable steps to provide the NER to all employees covered by the agreement and employed at the notification time (including employees on leave)</p> <p>The employer did not provide sufficient information in the Form F17 as to the steps taken to provide the NER to employees</p> <p>The employer provided the NER to employees more than 14 days after notification time</p> <p>The last NER was not given at least 21 days before voting</p>	<p>The NER must be provided within the prescribed times:</p> <ul style="list-style-type: none"> • The employer must take all reasonable steps to give the NER to each employee who will be covered by the agreement (generally, the time when the employer agrees to or initiates bargaining) • The Form F17 requires the employer to provide information as to the steps taken and dates on which the NER was provided to employees, so the Commission can be satisfied that the above requirement was met • Employees must be provided with the NER as soon as practicable and not later than 14 days after notification time • Employees must not be requested to approve an agreement until at least 21 days after the day on which the last NER is given 	<p>s.173(1) FW Act, reg.2.04 FW Regs</p> <p>Form F17 Q2.4</p> <p>s.173(3) FW Act, Form F17 Q2.9</p> <p>s.181(2) FW Act (and see ss.186(2)(a) & 188(1)(a)(iii)), Form F17 Q2.9</p>
<p>TIP: Use the NER tool to generate a NER in the correct form and to complete all necessary fields and use the Date Calculator Provide as much relevant information as possible when completing the application form and statutory declaration. This includes:</p> <ul style="list-style-type: none"> • when and how the NER was provided to employees • when and how the agreement was explained to employees • when and how employees were informed of the time and place of the vote, when the vote took place, and the method of voting <p><i>Include copies of relevant documents such as emails to employees with the application.</i></p>		

Regulation/source**	Requirement	Defect or issue
---------------------	-------------	-----------------

5.2 Access to copy of agreement and incorporated material

s.180(2) FW Act (and see ss.186(2)(a) & s.188(1)(a)(i))	<ul style="list-style-type: none"> The employer must take all reasonable steps to ensure the employees employed at the time who will be covered by the agreement are given the agreement and incorporated materials (including any policies incorporated into the agreement) during the 'access period' or have access to the agreement and those materials throughout the access period. The access period is the 7-day period immediately before the day on which voting for the agreement starts 	<ul style="list-style-type: none"> The employer did not take all reasonable steps to ensure that employees were given or had access to a copy of the agreement and incorporated material in the access period
Q2.5 of the Form F17	<ul style="list-style-type: none"> The Form F17 requires the employer to provide information as to the steps taken and dates on which the materials or access to the materials was given to employees, so the Commission can be satisfied that the above requirement was met 	<ul style="list-style-type: none"> The employer did not provide sufficient information in the Form F17 as to how they provided this material to employees

5.3 Notification of vote

s.180(3) FW Act (and see ss.186(2)(a) & s.188(a)(i))	<ul style="list-style-type: none"> The employer must take all reasonable steps to inform employees of the voting time, place and method before the start of the access period for the agreement 	<ul style="list-style-type: none"> The employer did not take all reasonable steps to inform employees of the voting time, place and method before the start of the access period for the agreement
Q2.6 of the Form F17	<ul style="list-style-type: none"> The Form F17 requires the employer to describe the steps taken and the information given to employees, and the dates on which the steps were taken, so the Commission can be satisfied that the above requirement was met 	<ul style="list-style-type: none"> The employer did not provide sufficient information in the Form F17 as to how it notified employees of the voting time, place and method

TIP: Use the [Date calculator](#) to check that your dates comply with the statutory requirements

Regulation/source**	Requirement	Defect or issue
---------------------	-------------	-----------------

<p>ss.180(5) & 180(6) FW Act (and see ss.186(2)(a) & 188(a)(i))</p> <p>Q2.7 & Q2.8 of the Form F17</p> <p>See also <i>One Key Workforce Pty Ltd v CFMEU</i> [2018] FCAFC 77</p>	<ul style="list-style-type: none"> • The employer must take all reasonable steps to ensure that the terms of the agreement and the effect of those terms are explained to the employees in an appropriate manner • The Form F17 requires the employer to describe the steps taken and when they were taken, what was explained, and how the particular circumstances and needs of employees were taken into account, so the Commission can be satisfied that this requirement has been met • More detailed information may be required where different awards cover different groups of employees who are covered by the agreement 	<p>The employer did not take all reasonable steps to explain to employees the terms of the agreement and their effect</p> <p>The employer did not provide sufficient information in the Form F17 as to how the effect of the terms of the agreement were explained to employees</p>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

5.4 Explanation of effect of the agreement

Defect or issue	Requirement	Regulation/source**
-----------------	-------------	---------------------

6. Agreement applications – Forms and lodgment

An application for the Commission to approve an enterprise agreement must be made to the Commission within 14 days after the agreement is made. The agreement is made when a majority of those employees who cast a valid vote approve the agreement. The application must include the Form F16 application, a signed copy of the agreement and the Form F17 employer statutory declaration (and its attachments). It may also be accompanied by other documents. To avoid delays in the Commission's processing of the application, it is important that these documents are properly completed and lodged on time.

6.1 Signature and content requirements

<p>The Form F16 or F17 (and any Form F18 or F18A) has not been signed correctly: Addresses or position/title not included</p>	<p>The agreement lodged must signed by the employer and at least 1 representative of the employees covered by the agreement and include:</p> <ul style="list-style-type: none"> • the full name and address of each person who signs the agreement and • an explanation of their authority to sign the agreement <p>Form F16 application form must be signed and dated by employer or bargaining representative (if by an appointed bargaining representative, the instrument of appointment must be provided)</p> <p>Form F17 employer statutory declaration must be signed by employer before an authorised witness, who also signs and completes their details (including full name, qualification and address)</p>	<p>s.185 FW Act, rule 24 FW Rules, Form F16</p> <p>s.185(2) FW Act, rules 24(1) & 24(2) FW Rules, Form F17</p> <p>ss.183, 185(2) FW Act, rules 24(3) & 24(4) FW Rules, Forms F18 and F18A</p>
------------------------------------------------------------------------------------------------------------------------------------------	----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Regulation/source**	Requirement	Defect or issue
<p>ss.185(2) & 185(5) FW Act, reg. 2.06A FW Regs</p>	<p>Form F18 employee organisation statutory declaration or Form F18A employee representative statutory declaration must be signed by employee organisation or employee representative before an authorised witness, who also signs and completes their details (including full name, qualification and address)</p> <p>An undertaking must be signed by each employer who gives the undertaking</p>	<p>The Form F17 (and any Form F18 or F18A) statutory declarations have not been witnessed by an authorised witness</p>
		<p>TIPS:</p> <ul style="list-style-type: none"> As the agreement, including the signature page, will be published on the Commission website and forms may become publicly available, people signing the agreement and forms may prefer to use their business/work address and contact details rather than their home address and personal contact details. Consider using the Commission's checklist contained in Annexure 2 of the step-by-step guide before lodging an agreement application to check that all the statutory requirements are met and all required information is provided See the guidance in Section 5 of the step-by-step guide about information to include in the Form F17 Any Form F18 or F18A should be lodged as soon as possible after the agreement application is lodged and include the exact title as per the Form F16 and agreement title clause.
		<p>6.2 Identifying more and less beneficial terms</p>
	<p>It is important to list in the Form F17 all terms and conditions that are more or less beneficial under the agreement than in the award, as well as any award terms that have been omitted</p>	<p>The Form F17 does not list the terms that are more or less beneficial than the relevant award</p>

Defect or issue	Requirement	Regulation/source**
<p>TIPS:</p> <ul style="list-style-type: none"> • Make sure all award conditions that are excluded from the agreement are identified • Providing detailed matching of classifications in the agreement against the award will assist the Commission to perform the BOOT assessment more quickly 	6.3 Lodgment	
<p>The application was lodged more than 14 days after the date voting concluded and no adequate explanation was provided</p>	<p>The application must be lodged within 14 days after the agreement was made.</p>	<p>ss.182(1) & 185(3)(a) FW Act, Form F17 Q2.9 & Q2.10</p>
<p>If an application is lodged late, an explanation must be provided so the Commission can consider whether it is fair to extend the lodgment period.</p>	<p>Any Form F18 or F18A must be lodged before the Commission approves the agreement.</p>	<p>s.185(3)(b) FW Act, Form F16 Q1.4</p>
<p>Delay in lodging F18 and F18A</p>		
<p>TIP: Use the Commission's Date Calculator to check dates comply with the Act</p>		

Attachment B: s.185 applications to approve agreements finalised in 2018 by industry

Industry	Number of applications¹	Percentage approved without undertakings
Airport operations	5	0%
Ambulance and patient transport	3	0%
Amusement, events and recreation industry	11	0%
Animal care and veterinary services	2	0%
Aquaculture	1	0%
Broadcasting and recorded entertainment industry	2	0%
Commercial sales	1	0%
Contract call centre industry	1	0%
Diving services	1	0%
Fire fighting services	1	0%
Funeral directing	4	0%
Grain handling industry	6	0%
Indigenous organisations and services	2	0%
Marine tourism and charter vessels	2	0%
Market and business consultancy services	1	0%
Miscellaneous	3	0%
Pharmacy operations	1	0%
Rubber, plastic and cable making industry	1	0%
Sporting organisations	3	0%
Technical services	3	0%
Wine industry	14	0%
Aged care industry	168	4%
Water, sewerage and drainage services	24	4%
Licensed and registered clubs	20	5%
Security services	57	5%
Hospitality industry	18	6%
Social, community, home care and disability services	66	6%
Mining industry	42	7%
Poultry processing	14	7%
Agricultural industry	25	8%
Meat Industry	36	8%
State and Territory government administration	12	8%
Timber and paper products industry	23	9%

Industry	Number of applications¹	Percentage approved without undertakings
Graphic Arts	22	9%
Northern Territory	33	9%
Retail industry	21	10%
Road transport industry	181	12%
Banking finance and insurance industry	34	12%
Cleaning services	17	12%
Airline operations	55	13%
Live performance industry	15	13%
Clerical industry	52	13%
Local government administration	66	14%
Corrections and detentions	7	14%
Dry cleaning and laundry services	7	14%
Storage services	117	15%
Fast food industry	13	15%
Waste management industry	45	16%
Electrical contracting industry	260	16%
Port authorities	19	16%
Tasmania	118	16%
Building services	6	17%
Manufacturing and associated industries	546	17%
Health and welfare services	185	17%
Vehicle industry	45	18%
Rail industry	28	18%
Cement and concrete products	50	18%
Coal industry	64	19%
Aluminium industry	5	20%
Asphalt industry	15	20%
Food, beverages and tobacco manufacturing industry	106	21%
Children's services	43	21%
Passenger vehicle transport (non rail) industry	23	22%
Pharmaceutical industry	23	22%
Gardening services	9	22%
Racing industry	13	23%
Quarrying industry	21	24%
Scientific services	4	25%

Industry	Number of applications ¹	Percentage approved without undertakings
Commonwealth employment	10	30%
Australian Capital Territory	80	31%
Oil and gas industry	32	31%
Business equipment industry	3	33%
Clothing industry	9	33%
Maritime industry	36	33%
Publishing industry	3	33%
Real estate industry	3	33%
Restaurants	21	33%
Tourism industry	3	33%
Textile industry	8	38%
Educational services	239	39%
Stevedoring industry	28	39%
Electrical power industry	30	40%
Journalism	9	44%
Cemetery operations	4	50%
Plumbing industry	133	53%
Dredging industry	11	55%
Sugar industry	5	60%
Building, metal and civil construction industries	1182	63%
Telecommunications services	3	67%
Coal export terminals	2	100%

¹ includes applications that were subsequently withdrawn or not approved

Attachment C: Enterprise Agreement User Group – List of organisations invited to participate

Aged & Community Services Australia

Ai Group

Aldi Foods Pty Ltd

“Automotive, Food, Metals, Engineering, Printing and Kindred Industries Union” known as the Australian Manufacturing Workers’ Union (AMWU)

Australian Nursing and Midwifery Federation

Australian Public Service Commission

Association of Independent Schools

The Australian Workers’ Union

Broadspectrum (Australia) Pty Ltd

Catholic Education Melbourne

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia

Construction, Forestry, Maritime, Mining and Energy Union

Cleanaway Operations Pty Ltd

CPSU, the Community and Public Sector Union

Downer Group

Health Services Union of Australia

Independent Education Union of Australia

K&S Freighters Pty Ltd

Linfox Logistics

Master Builders’ Association of Victoria

The Master Plumbers’ and Mechanical Services Association of Australia

National Retail Association Limited

The National Electrical Contractors Association

National Union of Workers

Qube Holdings Ltd

Shop, Distributive and Allied Employees Association

Service Industry Advisory Group

United Voice

Veolia Australia and New Zealand

