

From: S 22(1)(a)(ii)

Sent: Wednesday, 12 October 2022 9:57 AM

To: S 22(1)(a)(ii)

Cc: S 22(1)(a)(ii)

Subject: RE: Agreements data request - undertakings [SEC=OFFICIAL]

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OFFICIAL

Hi s 22(1)(a)

I have prepared the data, in the tables below. Under each table is the source of the data, noting that while some of this data is unpublished it has been used in various presentations or engagement sessions.

Table 1: Enterprise agreements – the number of agreements approved, with and without undertakings for the past 5 years

Table 2: Time taken to approve s.185 applications – median approval timeframes for agreements approved without undertakings and for all approved (both with and without) for the past 5 years.

- Note: these are calendar days.

Table 3: Time taken to approve s.185 applications – current internal benchmarks, timelines data for simple and complex for the past year in working days.

- Note: complex will include all of those approved with undertakings and some matters approved without undertakings that were not complete and compliant on lodgment.

Table 4: Time taken to approve s.185 applications (Old internal benchmarks) this is simple and complex timeliness under the old benchmarks.

- Note: these benchmarks were based on calendar days/weeks as opposed to the new benchmarks in table 3 which are working days.

Table 5: Common issues in s.185 applications 2021-2022

- Note: I do not have 5 years' worth of data for this item, this is a manual task produced for a specific purpose. The table note confirms that this table presents identified common issues in EA applications – not all of which resulted in undertakings.

Please let me know if you would like to discuss or require further explanation of any of the data.

Table 1: Enterprise agreements – agreements approved, with and without undertakings

Matter type	No. approved without undertakings					No. approved with undertakings				
	2021-22	2020-21	2019-20	2018-19	2017-18	2021-22	2020-21	2019-20	2018-19	2017-18
FWA s.185 – Single-enterprise	1,965	1,700	1,533	1,473	1,159	2,003	1,494	2,299	3,000	2,499
FWA s.185 – Greenfields	311	219	148	129	71	72	81	95	75	47
FWA s.185 – Multi-enterprise	16	7	8	8	5	17	11	15	22	22
Total	2,292	1,926	1,689	1,610	1,235	2,092	1,586	2,409	3,097	2,568

Table 19, page 67) for 2017-18 and 2018-19 data.

For 2019-20, 2020-21 and 2021-22 Fair Work Commission administrative data.

Table 2: Time taken to approve s.185 applications

Median calendar days from lodgment to approval	PBS KPI	2017-18	2018-19	2019-20	2020-21	2021-22
Agreement approved without undertakings (PBS KPI)	32 days	32 days	30 days	17 days	14 days	12 days
All agreements approved (with & without undertakings)	–	76 days	79 days	33 days	20 days	15 days

Source: extract from the [President's statement: Enterprise agreements – Timeliness benchmarks \(fwc.gov.au\)](#) (Paragraph 10, page 3). 30 June 2022 updated via Fair Work Commission administrative data.

Table 3: Time taken to approve s.185 applications (current benchmarks)

Enterprise agreements timeliness	Internal benchmark	2021 – 2022
Simple applications:		
approved in 10 working days	50%	87%
approved in 20 working days	95%	96%
Complex applications:		
approved in 20 working days	50%	76%
approved in 45 working days	95%	99%

Source: Fair Work Commission administrative data.

Table 4: Time taken to approve s.185 applications (Old internal benchmarks)

	Benchmark	2017–18	2018–19	2019–20	2020-21
• Simple applications					
• Approved in 3 weeks	50%		60%	77%	86%
• Approved in 8 weeks	100%		89%	97%	99%
• Complex applications					
• Approved in 10 weeks	50%		21%	76%	96%
• Approved in 16 weeks	100%		62%	90%	99%

Source: extract from the [President's statement: Enterprise agreements – Timeliness benchmarks \(fwc.gov.au\)](#) (Paragraph 11, page 3). 30 June 2021 updated via Fair Work Commission administrative data.

Table 5 – Common issues in s.185 applications 2021-2022

Common issues in agreement applications – Agreement applications resulted between 1 July 2021 to 30 June 2022	
The Better Off Overall Test (BOOT)	41% of applications required undertakings or further submissions to satisfy the BOOT
National Employment Standards (NES)	38% of applications contained NES inconsistencies
Pre-approval requirements	53% of applications required further information regarding pre-approval requirements
Agreement signatory requirements	16% of applications contained agreements which were not signed correctly
Forms	5% of applications contained issues regarding the Forms
Mandatory terms	23% of applications contained a mandatory term issue

Source: Fair Work Commission.

Note: Not all common issues listed above required an undertaking. Table does not sum to 100% as some applications had multiple common issues.

s 22(1)(a)(ii)

Director – Agreements Team



Fair Work Commission

Australia's national workplace relations tribunal

Ts 22(1)(a)(ii)

E

11 Exhibition St, Melbourne Victoria 3000
GPO Box 1994, Melbourne Victoria 3001

The Fair Work Commission acknowledges that our business is conducted on the traditional lands of Aboriginal and Torres Strait Islander people. We acknowledge their continuing connection to country and pay our respects to their Elders past, present and emerging.

This email was sent from Wurundjeri Woi Wurrung Country.

From: S 22(1)(a)(ii) <@dewr.gov.au>

Sent: Monday, 10 October 2022 1:36 PM

To: S 22(1)(a)(ii) <@fwc.gov.au>

Cc: S 22(1)(a)(ii) <@fwc.gov.au>

Subject: Agreements data request - undertakings [SEC=OFFICIAL]

Hi S

I hope you're well! Things are a little crazy here with the number of bargaining related reforms we're working on. To that end, I'm after some data around undertakings that I was hoping you could provide us with. This is for the regulatory impact statement where we have to cost the impact of our reforms.

- Number of agreements approved:
 - With and without undertakings
- For those agreements with and without undertakings, timeliness data (median approval time for agreements with undertakings vs without undertakings. Or simple vs complex if that's what you have)
- For those agreements requiring undertakings, a breakdown of reason eg NES non-compliance, BOOT non-compliance

Would you be able to provide this data for the last 5 years? If that is completely unreasonable, then a year's worth of data would be great.

With the reasons for undertakings, I know your team did some work on that a while ago. If it was just a one off piece of analysis, would you be able to share it with me?

Give me a call if its easier to discuss this over the phone – my number is S 22(1)(a)

Cheers,

S 22(1)(a)(ii)

(A/g) Assistant Director

Bargaining Policy | Bargaining and Policy Industry Branch
Safety and Industry Policy Division
Australian Government Department of Employment and Workplace Relations
Phone S 22(1)(a)
dewr.gov.au

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them and their cultures, and Elders past, present and emerging.

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