



Bargaining and workplace relationships

Initiating bargaining – single enterprise agreements

These amendments form part of an Australian Government commitment to ensure employees and employers have flexible options for reaching agreements.

What has changed?

The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* amends the *Fair Work Act 2009* (the Act) to remove the requirement for employee bargaining representatives, such as a union, to obtain a majority support determination from the Fair Work Commission (the Commission) to initiate bargaining in certain circumstances.

Under the changes, a bargaining representative who will be covered by a proposed single-enterprise agreement can give an employer a written request to bargain if:

- the proposed agreement will replace an earlier single-enterprise agreement that has passed its nominal expiry date
- a single interest employer authorisation did not cease to be in operation because of the making of the earlier agreement
- no more than 5 years have passed since the nominal expiry date, and
- the proposed agreement will cover the same, or substantially the same, group of employees as the earlier agreement.

When these requirements are met, employers are required to bargain with employees for a new enterprise agreement in good faith. Previously under these circumstances, an employee bargaining representative was required to seek a majority support determination from the Commission to require an employer to bargain for an agreement, where the employer had not agreed to bargain. This required the representative to demonstrate that a majority of employees to be covered by the agreement wanted to bargain, usually via a secret ballot, survey, written statements or a petition.

The new provisions do not apply to bargaining for a greenfields agreement or if a single interest employer authorisation applied to the earlier agreement.

What do these changes mean?

These amendments aim to improve access to single-enterprise agreements by reducing barriers to commencing bargaining. This new method for initiating bargaining broadly only applies where the proposed and replacement agreements are both single-enterprise agreements.

When will these changes come into effect?

These changes came into effect on 7 December 2022.

For more information on the *Secure Jobs, Better Pay* package visit:

www.dewr.gov.au/workplace-relations.