

**A Guide To Making A Single-Enterprise Agreement
Under the *Fair Work Act 2009 (Cth)***

	Action
1.	The employer may make an Enterprise Agreement (Agreement) with its current employees, who will be subject to the Agreement. An enterprise agreement is made at the enterprise level and provides terms and conditions for those national system employees to whom it applies.
2.	<p>Bargaining</p> <p>An employer that will be covered by a proposed Agreement must take all reasonable steps to give notice to each employee of their right to be represented by a bargaining representative.</p> <p>The employer must give the notice as soon as practicable, and not later than 14 days, after the notification time for the agreement. The <i>Notice of Employee Representational Rights</i> begins this bargaining period.</p> <p>The notification time will commence (for example), when the employer agrees to bargain or initiates a bargaining period.</p> <p>NB: An employer may not request employees to approve the Agreement until 21 days after the last notice is given.</p>
3.	<p>Pre-approval process:</p> <ol style="list-style-type: none"> 1. Employers must give all relevant employees 7 days to review and consider the Agreement. This 7-day period is known as the 'access period'. The access period will end immediately prior to the employees voting to approve (or reject) the Agreement. 2. By the start of the access period the employer must provide employees with: <ol style="list-style-type: none"> a. notice as to the time and place at which the vote will occur; and b. the method of voting that will be used. 3. During the access period the employer must also ensure that it provides the employees with the following for the entire access period: <ol style="list-style-type: none"> a. a copy of the agreement along with any other material incorporated by reference to the agreement; and b. access to the agreement and associated materials. 4. The employer must also take all reasonable steps to ensure that the terms of the Agreement and their effect are explained to the relevant employees and must be explained in an appropriate manner (e.g. appropriate for young employees or employees from culturally diverse backgrounds).
4.	<p>Bargaining process:</p> <p>This is the part of the process whereby the employer and employees agree on terms and conditions of employment that are able to be included in the Agreement.</p>

	<p>The important points to remember are:</p> <ol style="list-style-type: none"> 1. Both the employer and the employee are able to appoint a bargaining representative. 2. Bargaining representatives are required to bargain in good faith. 3. If a dispute arises during the bargaining process, a bargaining representative can apply to the Fair Work Commission (FWC) for assistance to resolve the dispute. This may include a requirement that the parties bargain 'in good faith'. <p>NB: If a dispute arises during the bargaining process (and the dispute relates to the creation of an Agreement), a bargaining representative may make an application to the FWC to seek certain orders including, for example, that the parties bargain in good faith.</p>
5.	<p>Agreement approval:</p> <ol style="list-style-type: none"> 1. An employer may request that the employees to be covered by the Agreement vote and approve the Agreement. The request to vote must not be made until 21 days after employees have been notified of their representational rights. 2. The employees may be requested to vote either by ballot or by an electronic method. 3. The Agreement is <i>made</i> when a majority of employees who cast a valid vote approve the Agreement. 4. Once an enterprise agreement is <i>made</i>, a bargaining representative for the agreement must apply to the FWC for approval of the agreement. This must be done within 14 days of the successful vote. We will provide you with the relevant forms and assist you with this process.
6.	<p>Once the Agreement has been made and sent off to the FWC, the Agreement will be subject to assessment under the '<i>better off overall test</i>'.</p>
7.	<p>Operation:</p> <p>The Agreement will come into operation 7 days after Agreement has been approved by the FWC.</p>

Please note that the above information is intended to be a guide only. As you can imagine, there are various items and issues contained in the Fair Work Act and the Fair Work Regulations that may impact on the process and the time it takes to make a single-enterprise agreement.

It is recommended that if you have any questions or concerns that relate to the agreement making process, then you contact us on (07) 4688 2188 to so that we can address any concerns you might have.

This document has been prepared for your information by members of the CG Law Workplace Team.