

Bargaining Streams

From 6 June 2023 or an earlier date to be fixed by proclamation



Fair Work Commission

	Single-enterprise agreement	Single-enterprise agreement (greenfields)	Supported bargaining agreement	Single interest employer agreement	Cooperative workplaces agreement
Overview	Made by one employer or 2 or more related employers with the employees who are employed at the time and who will be covered by the agreement. Employers are 'related employers' if engaged in a joint venture or common enterprise or related bodies corporate.	Made by one employer or 2 or more related employers and each relevant employee organisation that the agreement is expressed to cover, in relation to a genuine new enterprise. Employers are 'related employers' if engaged in a joint venture or common enterprise or related bodies corporate.	A type of multi-enterprise agreement where a supported bargaining authorisation was in operation. This type of multi-enterprise agreement replaces the low-paid bargaining stream. Supported bargaining agreements are made with support by the FWC to assist employers and employees who have had difficulty bargaining at the single-enterprise level and other employees who face barriers to bargaining.	A type of multi-enterprise agreement where a single interest employer authorisation was in operation. A single interest employer agreement may be made with multiple employers with common interests or that are franchisees.	A type of multi-enterprise agreement where there was no supported bargaining authorisation or single interest employer authorisation in operation in relation to the agreement immediately before the agreement was made. A cooperative workplace agreement covers multiple employers that have agreed to bargain together.
When does bargaining commence?	When one of the following occurs: <ul style="list-style-type: none"> the employer agrees to bargain, or initiates bargaining a majority support determination comes into operation a scope order comes into operation a bargaining representative makes a request to bargain to the employer, and the bargaining is for a single-enterprise agreement to replace one that has passed its nominal expiry date within the past 5 years. 	When the employer who is a bargaining representative gives written notice to each employee organisation that is a bargaining representative for the agreement setting the starting day (of the 6-month notified negotiation period).	When the supported bargaining authorisation comes into operation. An application can be made by a bargaining representative or employee organisation that is entitled to represent the industrial interests of an employee in relation to work to be performed under the agreement. The FWC must be satisfied that it is appropriate for the employers and employees to bargain together, having regard to certain matters. The FWC must also make a supported bargaining authorisation if an application has been made and the Minister has made a declaration in respect of the industry, occupation or sector in which the employees are employed.	When the single interest employer authorisation comes into operation. An application for a single interest employer authorisation can be made by the employers, or by a bargaining representative of an employee who will be covered by the proposed agreement. The FWC must make the single interest employer authorisation if satisfied that certain criteria are met, including that the employers are certain franchisees or have clearly identifiable common interests (and if the latter, that making the authorisation is not contrary to the public interest).	When a group of employers decide to bargain together.
Small businesses included?	Yes.	Yes.	Yes.	Small businesses (less than 20 employees) only included by consent.	Yes, provided they consent, as all employers must agree to participate in the cooperative workplaces stream.
Must an employee organisation be involved?	No.	Yes.	Yes. To make a supported bargaining authorisation, the FWC must be satisfied that at least some employees who will be covered are represented by an employee organisation.	Yes. To make a single interest employer authorisation, the FWC must be satisfied that at least some employees who will be covered are represented by an employee organisation.	Yes.
Protected industrial action	Available. If a Protected Action Ballot Order (PABO) is made, conciliation by the FWC is mandatory.	Not available.	Available. If a PABO is made, conciliation by the FWC is mandatory. 120 hours' notice must be given before taking protected industrial action.	Available. If a PABO is made, conciliation by the FWC is mandatory. 120 hours' notice must be given before taking protected industrial action.	Not available.
Bargaining orders	Available.	Available, but only if the 6-month notified negotiation period has not ended.	Available.	Available.	Not available.
Bargaining disputes	A bargaining representative may apply for the FWC to deal with a bargaining dispute.	A bargaining representative may apply for the FWC to deal with a bargaining dispute.	A bargaining representative may apply for the FWC to deal with a bargaining dispute.	A bargaining representative may apply for the FWC to deal with a bargaining dispute.	A bargaining representative may only apply for the FWC to deal with a bargaining dispute if all bargaining representatives for the proposed cooperative workplace agreement have agreed to the making of the application.
Intractable bargaining declarations	Available. The FWC must be satisfied that it has dealt with the dispute under s.240 and the applicant participated in the FWC's processes to deal with the dispute, there is no reasonable prospect of agreement being reached without the declaration, and it is reasonable in all circumstances to make the declaration, taking into account the views of the bargaining representatives.	Not available.	Available. The FWC must be satisfied that it has dealt with the dispute under s.240 and the applicant participated in the FWC's processes to deal with the dispute, there is no reasonable prospect of agreement being reached without the declaration, and it is reasonable in all circumstances to make the declaration, taking into account the views of the bargaining representatives.	Available. The FWC must be satisfied that it has dealt with the dispute under s.240 and the applicant participated in the FWC's processes to deal with the dispute, there is no reasonable prospect of agreement being reached without the declaration, and it is reasonable in all circumstances to make the declaration, taking into account the views of the bargaining representatives.	Not available.
Variations to add employers/employees	Not applicable.	Not applicable.	A supported bargaining agreement may be varied to cover additional employers and employees upon joint application between the employer and employees to be added, or an application by an employee organisation entitled to represent the interests of the employees to be covered. The FWC must be satisfied that a majority of the employees support the variation.	A single interest employer agreement may be varied to cover additional employers and employees upon joint application by the employer and employees to be added, or on application by an employee organisation entitled to represent the interests of the employees to be covered. The FWC must be satisfied that a majority of employees support the variation.	An agreement can be varied to add an employer and employees by agreement between that employer and those employees. Before approving the variation, the FWC must be satisfied of certain matters including that it is not contrary to the public interest (and see below for limitations on variations in relation to the general building and construction industry).
Applies to general building and construction industry?	Yes.	Yes.	The FWC cannot make a supported bargaining authorisation if the agreement would cover employees in relation to general building and construction work.	The FWC cannot make a single interest employer authorisation if the agreement would cover employees in relation to general building and construction work.	The FWC can only approve a cooperative workplace agreement that covers general building and construction employees if the agreement is a greenfields agreement. Such a greenfields agreement cannot be varied to add employers and employees. A cooperative workplace agreement cannot be varied to add employees performing general building and construction work.