

[2024] FWCFB 102 [Note: A copy of the zombie agreement to which this decision relates ([AC308223](#)) ([AC328069](#)) is available on our website.]



DECISION

Fair Work (Transitional Provisions and Consequential Amendments) Act 2009
Sch. 3, Item 20A(4) - Application to extend default period for agreement-based transitional instruments

United Workers' Union

(AG2023/4641 and AG2023/4644)

PORT CLUB/LHMU COLLECTIVE AGREEMENT 2007-2011

[AC308223]

PRINCE OF WALES HOTEL/LHMU COLLECTIVE AGREEMENT 2009-2011

[AC328069]

Hospitality industry

DEPUTY PRESIDENT WRIGHT
DEPUTY PRESIDENT GRAYSON
COMMISSIONER THORNTON

SYDNEY, 22 FEBRUARY 2024

Applications to extend the default period for the Port Club/LHMU Collective Agreement 2007-2011 and the Prince of Wales Hotel/LHMU Collective Agreement 2009-2011

[1] Pursuant to item 20A(4) of Schedule 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth) (the **Transitional Act**), the United Workers Union has applied to extend the default period for the *Port Club/LHMU Collective Agreement 2007-2011* and the *Prince of Wales Hotel/LHMU Collective Agreement 2009-2011* (the **Agreements**).

[2] The applications are made in accordance with subitem 20A(6)(a) and (7) on the grounds that bargaining is occurring for a proposed enterprise agreement that will cover substantially the same group of employees as are covered by the Agreements and that it is appropriate to do so. The applications were made after the notification time for the proposed enterprise agreement.

[3] The Full Bench in *ISS Health Services Pty Ltd*¹ described the requirements that must be met for an application to extend the default period where bargaining for a replacement agreement is made.

[4] The parties requested a conference be convened by the Commission with respect to this matter. A conference was held before Commissioner Thornton on 5 February 2023. Following

the conference the parties sought an order, by consent, that the Agreements be extended until 31 May 2024.

[5] We are satisfied on the material provided to the Commission, including correspondence and submissions, that the requirements in subitems (6)(a) and (7) are met and that it is appropriate to extend the default period of the Agreements as sought by the parties. The parties have commenced bargaining for a replacement agreement and we consider that, on their representations, an extension until 31 May 2024 is sufficient time for a replacement agreement to be made and approved.

[6] Pursuant to item 20A(6)(a) of Schedule 3 of the Transitional Act, we order that the default period for the Agreements is extended until 31 May 2024.

[7] The Agreements are published, in accordance with subitem 20A(10A)(c) of the Transitional Act, on the Fair Work Commission's website.



DEPUTY PRESIDENT

Printed by authority of the Commonwealth Government Printer

<PR771718>

¹ [\[2023\] FWCFB 122](#)