



ORDER

Fair Work Act 2009

s.306E—Application for a regulated labour hire arrangement order

Application by Shop, Distributive and Allied Employees Association re Kmart Lytton Distribution Centre

(LH2024/9)

KMART AUSTRALIA LIMITED REGULATED LABOUR HIRE ARRANGEMENT ORDER NO 1

[LH200012]

JUSTICE HATCHER, PRESIDENT

SYDNEY, 22 NOVEMBER 2024

Regulated labour hire arrangement order – Programmed Skilled Workforce Pty Ltd in relation to work performed for Kmart Australia Limited at the Kmart Lytton Distribution Centre – Kmart Australia Ltd Lytton Distribution Centre Enterprise Agreement 2022.

- A. Further to the decision in *Application by Shop, Distributive and Allied Employees Association re Kmart Lytton Distribution Centre* [\[2024\] FWC 3238](#), the Fair Work Commission makes this regulated labour hire arrangement order (order) pursuant to s 306E of the *Fair Work Act 2009* (Cth) (FW Act).
- A.1 The regulated host covered by the order is Kmart Australia Limited (the Regulated Host).
- A.2 The employer covered by the order is Programmed Skilled Workforce Pty Ltd (the Employer).
- A.3 The regulated employees covered by the order are employees of the Employer who perform work at the Kmart Lytton Distribution Centre at 51 Freight Street, Lytton in the State of Queensland who would, if employed by the Regulated Host, be covered by the host employment instrument identified in A.4 (the Regulated Employees).
- A.4 The host employment instrument covered by the order is the *Kmart Australia Ltd Lytton Distribution Centre Enterprise Agreement 2022* (AE518088) (the Host Employment Instrument).
- B. This order comes into force on 2 December 2024.

- C. This order ceases to be in force where the Host Employment Instrument ceases to apply and no other new employment instrument starts to apply pursuant to s 306EB of the FW Act.

NOTE: Section 306F(2) of the FW Act provides that, while a regulated labour hire order is in force, an employer covered by the order must pay any regulated employee covered by the order no less than the 'protected rate of pay' for the employee in connection with the work performed by the employee for the regulated host. The 'protected rate of pay' for a regulated employee is defined in ss 306F(4)–(6). There are certain exceptions to this obligation under ss 306F(3) and (3A).



PRESIDENT

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