



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

United Workers' Union
(AG2019/4470)

HUNTER LEISURE PTY LTD AND NATIONAL UNION OF WORKERS ENTERPRISE AGREEMENT 2019

Storage services

DEPUTY PRESIDENT MANSINI

MELBOURNE, 24 DECEMBER 2019

Application for approval of the Hunter Leisure Pty Ltd and National Union of Workers Enterprise Agreement 2019.

[1] Application has been made for approval of a single enterprise agreement known as the *Hunter Leisure Pty Ltd and National Union of Workers Enterprise Agreement 2019* (the Agreement), pursuant to s.185 of the *Fair Work Act 2009* (Cth) (the Act).

[2] Since the application was made, the Commission raised concerns about whether the Agreement contravenes s.55 of the Act and passes the “better off overall” test. Further information was provided in relation to these concerns.

[3] Written undertakings were given in accordance with s.190 of the Act and are attached at Annexure A (Undertakings). The bargaining representative did not oppose the Undertakings. I am satisfied that the Undertakings will not cause financial detriment to any employee covered by the Agreement and that the Undertakings will not result in substantial changes to the Agreement. Pursuant to s.201(3) of the Act, the Undertakings are taken to be terms of the Agreement.

[4] Noting clause 7 of the Agreement, I am satisfied that the more beneficial entitlements of the National Employment Standards in the Act (NES) will prevail where there is an inconsistency between the Agreement and the NES.

[5] On the basis of the material contained in the application, further information provided on request of the Commission and the Undertakings, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 as are relevant to this application for approval have been met.

[6] The United Workers' Union (formerly the National Union of Workers'), being a bargaining representative for the Agreement, has given notice under s.183 of the Act. In accordance with s.201(2) I note that the Agreement covers this organisation.

[7] The Agreement was approved on 24 December 2019. Notwithstanding clause 3 of the Agreement, in accordance with s.54, the Agreement will operate from 31 December 2019. The nominal expiry date of the Agreement is 1 July 2022.



DEPUTY PRESIDENT

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2019/4470

Applicant:

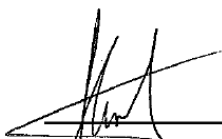
UNITED WORKERS UNION

Section 185 – Application for approval of a single enterprise agreement

Undertaking- Section 190

I, Bryan Golante, Chief Financial Officer for Hunter Leisure Pty Ltd give the following undertakings with respect to the Hunter Leisure Pty Ltd and National Union of Workers Enterprise Agreement 2019 ("the Agreement"):

1. I have the authority given to me by Hunter Leisure Pty Ltd to provide this undertaking in relation to the application before the Fair Work Commission.
2. Notwithstanding clause 28.1.4, the spread of hours may be altered by up to one hour by agreement between management and the majority of employees covered by this agreement in the workplace, or a section or sections of it.
3. Notwithstanding clause 28.1.4 and clause 31.1, the spread of ordinary hours shall be between 7.00am and 5:30pm, and early morning shift will mean a shift commencing between 2.00am and 7.00am.
4. Notwithstanding clause 25, the supported wage system in the Storage Services Award 2010 shall apply. For the avoidance of doubt, Appendix C to the Agreement will not be applied.
5. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.



Signature

Bryan Golante

Chief Financial Officer

17 December 2019

Date