

[2023] FWCA 2691 [Note: An appeal pursuant to s.604 (C2023/5323) was lodged against this - refer to Full Bench decision date 31 October 2023 [\[2023\] FWCFB 200](#) for result of appeal.]



# DECISION

*Fair Work Act 2009*

s.185—Enterprise agreement

## **Southern Cross University**

(AG2022/4745)

## **SOUTHERN CROSS UNIVERSITY ENTERPRISE AGREEMENT 2021**

Educational services

COMMISSIONER P RYAN

SYDNEY, 23 AUGUST 2023

*Application for approval of the Southern Cross University Enterprise Agreement 2021*

[1] Southern Cross University (**Applicant**) has made an application for approval of an enterprise agreement known as the *Southern Cross University Enterprise Agreement 2021* (**Agreement**) pursuant to s.185 of the *Fair Work Act 2009* (**FW Act**). The Agreement is a single enterprise agreement.

### **Regulation 2.06 Requirements**

[2] The application was accompanied by a signature page that did not comply in all respects with Regulation 2.06A of the *Fair Work Regulations 2009* (**FW Regulations**). An amended signature page was subsequently filed. I consider it appropriate in the circumstances to waive an irregularity in the form or manner in which an application was made and do so pursuant to s.586(b) of the FW Act.

### **Section 190 Undertakings**

[3] The employer provided written undertakings. A copy of the undertakings is attached in Annexure A. 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 FW Act, the undertakings are taken to be a term of the Agreement.

### **Section 186, 187, 188 and 190**

[4] Further to my decision<sup>1</sup> and subject to the undertakings referred to above, 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.

### **Model Flexibility Term**

[5] The Agreement does not contain a flexibility term that meets the requirements of s.203 of the FW Act. Pursuant to s.202(4) of the FW Act, the model flexibility term prescribed by the FW Regulations is taken to be a term of the Agreement.

### **Section 183 Bargaining Representatives**

[6] The Community and Public Sector Union (CPSU) and the National Tertiary Education Industry Union (NTEU), each being a bargaining representative for the Agreement, have given notice under s.183 of the FW Act that they want the Agreement to cover them.

[7] In accordance with s.201(2), I note that the Agreement covers the CPSU and the NTEU.

### **Approval**

[8] The Agreement is approved and, in accordance with s.54 of the FW Act and clause 5 of the Agreement, will operate from 13 September 2023. The nominal expiry date of the Agreement is 23 August 2026



COMMISSIONER

Printed by authority of the Commonwealth Government Printer

<[AE521238](#) PR765474>

---

<sup>1</sup> *Southern Cross University* [\[2023\] FWC 2077](#).