



DECISION

Fair Work Act 2009
s.185—Enterprise agreement

Medibank Private Limited T/A Medibank
(AG2023/4712)

MEDIBANK ENTERPRISE AGREEMENT 2023

Banking finance and insurance industry

COMMISSIONER WILSON

MELBOURNE, 22 DECEMBER 2023

Application for approval of the Medibank Enterprise Agreement 2023.

[1] An application has been made for approval of an enterprise agreement known as the *Medibank Enterprise Agreement 2023* (the Agreement). The application was made pursuant to s.185 of the *Fair Work Act 2009* (the Act). It has been made by Medibank Private Limited T/A Medibank and Australian Health Management Group Pty Ltd T/A Australian Health Management (ahm). The Agreement is a single enterprise agreement.

[2] The notification time for the Agreement under s.173(2) was 23 August 2023 and the Agreement was made on 21 November 2023. Accordingly, both the genuine agreement and the better off overall test requirements are those applying on and from 6 June 2023.¹

[3] The Employer has 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. The undertakings are taken to be a term of the agreement.

[4] Subject to the undertakings referred to above, I am satisfied that each of the requirements of ss.186, 187, 188, 193 and 193A as are relevant to this application for approval have been met. The Agreement does not cover all of the employees of the employer. However, taking into account the factors in sections 186(3) and (3A), I am satisfied that the group of employees was fairly chosen.

[5] The CPSU, the Community and Public Sector Union and the Australian Municipal, Administrative, Clerical and Services Union being bargaining representatives for the Agreement, have given notice under s.183 of the Act that they want the Agreement to cover them. In accordance with s.201(2) I note that the Agreement covers the organisations.

[6] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 29 January 2023. The nominal expiry date of the Agreement is 30 September 2026.



COMMISSIONER

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2023/4712

Applicant:
Application by Medibank Private Limited T/A Medibank

Section 185 - Application for approval of a single enterprise agreement

Undertaking — section 190

I, Kylie Bishop, Group Lead - People, Spaces & Sustainability at Medibank Private Limited (**Medibank**), give the following undertakings with respect to the *Medibank Enterprise Agreement 2023 (Agreement)*:

1. I have the authority given to me by Medibank to provide this undertaking in relation to this application before the Fair Work Commission.
2. Medibank undertakes that the following clause will operate subject to the National Employment Standards:
 - (a) clause 45.7, in that an employee's obligation to notify Medibank of their absence on personal leave must be given to Medibank as soon as practicable (which may be a time after the leave has started).
3. In order to ensure "Better Off Overall Test" compliance for certain employees Medibank undertakes that it will apply the payroll reconciliation process set out in this clause (**Payroll Reconciliation**) to the following employees:
 - (a) any non-shiftworker who works ordinary hours after 7 pm Monday to Friday, or at any time on a Saturday; and
 - (b) any employee who works on a public holiday.

Within four weeks of an employee working in either circumstance, Medibank will complete a Payroll Reconciliation to ensure that each employee is better off overall when compared to the Award (which means either or both the Medibank Private Limited Award 2004 and the Banking, Finance and Insurance Award 2020).

If, as a result of the Payroll Reconciliation, it is shown that an employee is not better off overall when compared to the Award, Medibank will make a payment to the employee of an amount equal to the difference between the amount which would have been payable to them under the Award had it applied to them, and the amount payable to them under the Agreement, plus an additional 1% of that difference (**Reconciliation Payment**).

The Reconciliation Payment will be paid to the employee as an adjustment within 14 days of a Payroll Reconciliation showing them to have been paid less than if the Award had applied to them.

4. Medibank undertakes that, with respect to Clause 40.1 of the Agreement, a part-time employee will not be required to work any 'additional hours' in excess of their rostered hours pursuant to this clause unless the employee's ordinary hours are varied by agreement.
5. Medibank undertakes to amend clause 39.7(d) of the Agreement so that it reads as follows:

Medibank will pay-out unused TOIL that has either accrued for a period greater than six (6) months or at the employee's request at the applicable overtime rate. Any TOIL that is accrued but untaken will be paid out on termination at the applicable overtime rate.
6. These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

Employer name:

Medibank Private Limited

Authority to sign:

Group Lead - People, Spaces & Sustainability

Signature:

A handwritten signature in black ink, appearing to be a stylized 'D' or similar character.

Date:

20 December 2023

¹ The *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Cth) made a number of changes to enterprise agreement approval processes in Part 2-4 of the Fair Work Act. Those changes broadly commenced operation on 6 June 2023, subject to various transitional arrangements which are not applicable to the present application.