

Changes to employment agreements

Q&As

In 2022, what decision did the Fair Work Commission (FWC) make regrading employment agreements?

The FWC introduced a regulation requiring organisations to terminate or "sunset" any pre-2010 employment agreements with expired terms and conditions, commonly known as "zombie agreements."

The default termination date (or expiry date) for "zombie agreements" is 7 December 2023.

What is a 'zombie' agreement?

When the Fair Work Act fully commenced on 1 January 2010, certain registered agreements made before that date continued to be valid under the Fair Work Act (pre-2010 agreements).

A zombie agreement is an agreement made before 1 January 2010 also referred to as a pre-2010 agreement. The agreement must have been made before the Fair Work Act 2009 came into effect and is still active without being terminated or replaced by a new agreement.

What zombie agreements does Endeavor Foundation have?

We have three (3) agreements due to sunset on 7 December 2023:

1. Endeavour Foundation Union Collective Agreement (EFUCA)
2. Community Solutions Certified Agreement
3. Cumberland Certified Agreement (NSW only)

Where can I find more information about the sunsetting of 'zombie' agreements?

You can visit the Fair Work Commission website at www.fwc.gov.au and search Sunsetting of pre-2010 agreements ('zombie agreements').

Why is it called 'sunsetting'?

The term "sunsetting" describes the process because, similar to the sun setting, the pre-2010 agreement automatically terminates unless steps are taken to keep it active beyond the default termination date. It symbolises the agreement coming to an end.

Am I better off on an Award instead of the Enterprise Agreement?

There are many benefits to remaining on an enterprise agreement, which include paying above minimum modern award rates, increasing flexibility for both employees and employers, and tailoring conditions to suit the working environment at Endeavour Foundation.

Whilst we understand our current agreement is expired, we remain committed to negotiating an updated position with The Services Union (TSU) and believe we can successfully achieve this if we receive an extension. Any updated agreement will allow for flexibility on working conditions, whilst ensuring employees are better off overall than what they would be under the applicable modern award for their role.

EFUCA

How long will the process of negotiation take?

It's not possible to confirm how long it will take to negotiate a new agreement. However, there the process includes the following steps:

1. **Preparation:** Notice of Employee Representational Rights (NERR) issued advising you of the right to appoint a bargaining representative. This was issued previously on August 17, 2021.
2. **Negotiations:** Formal meetings between Endeavour Foundation and unions.
3. **In principle agreement reached:** A proposed new agreement drafted
4. **Employee ballot:** Endeavour Foundation are given the opportunity to vote on the proposed agreement.
5. **Approval and operation:** Vote successful, agreement submitted and approved by Fair Work Commission (FWC) and is then implemented.

After each negotiation session we will provide you an update.

What is a Notice of Employee Representational Rights (NERR)

The NERR is a legal document for employees proposed to be covered by a new enterprise agreement. It outlines your right to appoint a bargaining representative during the negotiations. The NERR explains the process to appoint a representative.

Please make sure you [look at the NERR](#) and [read the FAQs](#)

Four important things you need to know

1. It's about negotiating the new enterprise agreement
2. It's an important legal document – please make time to read it
3. It's about your right to appoint a person to represent you during the process
4. You've received it because it is proposed that you will be covered by a new enterprise agreement

Who is participating in the bargaining sessions?

The Endeavour Foundation negotiation team are:

- Kye Rutter – Head of People Business Partnering
- David Groessler – Employee Relations Manager
- Simon Wright – General Manager, Home and Community

If you are a member of a union, your union will automatically represent you. The unions who are party to the negotiations are the:

- Justin Moran – The Services Union (TSU)
- Tracey Coorey – The Services Union (TSU)
- Geoff Taylor – Australian Workers' Union (AWU).

Endeavour Foundation Employees / Union Delegates

- Rodger Cooke
- Abe Nugent
- Leonie Jeffrey
- Julie Campbell

You have the right to represent yourself or nominate a bargaining representative. You can participate in the enterprise bargaining process by referring to the NERR.

I have more questions. What should I do?

If you have any questions about the sunsetting of our Enterprise Agreement you can lodge a ticket through the #TeamPossible Support Hub [here](#) or once you are in the #TeamPossible Support Hub click on '**I need P&W support**' and then click on '**EA Support**'.