

[2024] FWCFB 352 [Note: A copy of the zombie agreement to which this decision relates ([AE875021](#)) is available on our website.]



DECISION

Fair Work (Transitional Provisions and Consequential Amendments) Act 2009
Sch. 7, Item 30(4) - Application to extend default period for enterprise agreements made during the bridging period

Health Services Union

(AG2024/2006)

AQA VICTORIA LTD COLLECTIVE AGREEMENT 2009

Health and welfare services

DEPUTY PRESIDENT WRIGHT
DEPUTY PRESIDENT ROBERTS
DEPUTY PRESIDENT SLEVIN

SYDNEY, 22 AUGUST 2024

Application to extend the default period for AQA Victoria Ltd Collective Agreement 2009

[1] The Health Services Union (**HSU**) has applied pursuant to subitem 30(4) of Sch 7 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth) (**Transitional Act**), to extend the default period for the *AQA Victoria Ltd Collective Agreement 2009* (the **Agreement**). The employer covered by the Agreement is AQA Victoria Ltd (**AQA**)

[2] An earlier application made by AQA seeking to extend the default period of the Agreement was granted extending the default period to 6 June 2024¹. The HSU seeks a further extension to allow a replacement agreement to be finalised. The extension sought is until 6 December 2024. The parties have been unable to finalise an agreement due to complexities associated with the bargaining.

[3] We note the observation of the Full Bench in *Application by Australian Municipal, Administrative, Clerical and Services Union* [\[2024\] FWCFB 271](#)² that the Commission will be reluctant to extend an Agreement in circumstances where the parties have failed to meet a stated objective of finalising an agreement in a specified timeframe.

[4] The Applicant explains that it has been attempting to reach an agreement since December 2023. A number of matters have arisen that have frustrated those attempts. Those matters included changes in key personnel at AQA. The Chief Executive Officer, who had been with the organisation for 16 years, left the organisation in March 2024. AQA's dedicated HR Manager has also recently left employment. The HSU continued attempts to progress bargaining, but progress was slow. The pace of bargaining picked up in April and May 2024 and AQA has now engaged external specialists to assist in finalising an agreement. AQA neither

supports nor opposes the application indicating in correspondence to the Commission that it believes an agreement should be finalised in the next 3 to 4 months.

[5] We are satisfied on the material provided that the requirements in subitem (6)(a) are met and that given the obstacles that have arisen in the bargaining it is otherwise appropriate to extend the default period. The parties are continuing to bargain for a replacement agreement, have assistance in doing so, and the employees are represented by their union. We consider that an extension until 6 December 2024 is sufficient time for a replacement agreement to be finalised and approved.

[6] Pursuant to item 30(6) of Sch 7 to the Transitional Act, we order that the default period for the Agreement is extended until 6 December 2024.

[7] The Agreement is published, in accordance with subitem 30(9A), on the Fair Work Commission's website.



DEPUTY PRESIDENT

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<[AE875021](#) PR778564>

¹ [\[2024\] FWCFB 188](#)

² [\[2024\] FWCFB 271](#)