

Low Paid Bargaining Authorisation – 30 MAY 2011

UNITED VOICE SUCCESSFUL IN THEIR APPLICATION FOR A LOW PAID BARGAINING ORDER

On 5 May 2011, Fair Work Australia handed down its decision on the Application for a Low Paid Bargaining Authorisation, submitted by United Voice (formerly LHMU). The Decision is lengthy but essentially FWA has granted the Union's application, finding that *generally* employees to whom the Authorisation will apply are low-paid.

This decision means that employers named in the Union's Application will be compelled to enter into negotiations, with their employees and the Union (and other interested parties, ie the Australian Government) to negotiate for a multi-enterprise agreement, under this Authorisation.

However, in its Decision FWA has also provided some constraints on who can be involved.

Employers/Employees already covered by an Agreement

FWA has directed that all employers and employees who are already covered by an Enterprise Agreement or any other form of approved Agreement, ie Collective, Workplace, etc. cannot be included under this Order.

This means that if your organisation has an Enterprise Agreement, regardless of whether it has reached its *nominal expiry date* or not, you will NOT be part of the Union's proposed multi-enterprise agreement.

To this end, FWA has given the Union 30 days to submit an amended list of employers who will be subject to the Authorisation, ie those employers who **do not** have an Enterprise Agreement.

Employers/Employees NOT covered by an Agreement

If your organisation is not covered by an Agreement, then you (the employer) or your bargaining representative will be required to participate in negotiating with the Union for a multi-enterprise agreement. FWA has directed United Voice to provide it with a progress report on these negotiations no later than 30 September 2011.

HOWEVER, an employer and its employees will still be able to enter into negotiations for a **single-enterprise** agreement, if they wish to do so, by making application to FWA to be **deleted** from the Authorisation. The employer's name will be taken to have been deleted ONLY once a single-enterprise agreement has been approved by FWA and comes into operation. The mechanics of how to apply for deletion from the Authorisation, eg will there be a specific form, are yet to be determined and advised, however, we will keep you informed on this.

Recommendations to Employers

- Those employers and employees who are currently trying to negotiate a new Agreement, or re-negotiate an existing Agreement should continue to do so. FWA in its Decision has indicated that it expects the Union to bargain in good faith with employers who choose to pursue a new single-enterprise agreement.
- Employers and employees who are covered by an existing Agreement, and who may have put 'on hold' their re-negotiations due to these proceedings should now re-commence their negotiations, advising United Voice of their intention to do so. At this stage, there is now NO avenue for inclusion in the Union's multi-enterprise agreement, so you must re-negotiate your existing Agreement, in the usual manner.
- Employers who are not covered by an Agreement, and now wish to discuss with their employees the merits of entering into a single-enterprise agreement should do so. The process for applying to have an employer's name deleted from the Union's list of eligible employers is unknown at this stage, however having an agreement approved by FWA will 'release' that employer from the multi-enterprise agreement.
- Continue to monitor our 'Latest News' section of our web site as the situation is dynamic and United Voice may well be considering its options to appeal this Decision.

QUERIES

Any queries relating to this circular can be directed to Ted Davis, Dianne Jacobs or Anna Petruzzelli, CEA Human Resources and Consulting on (08) 8331 3133.

Ted Davis
Executive Director