



DECISION

Fair Work Act 2009

s.185 - Application for approval of a single-enterprise agreement

Royal Flying Doctor Service Of Australia (South Eastern Section)
(AG2023/2150)

ROYAL FLYING DOCTOR SERVICE OF AUSTRALIA (SOUTH EASTERN SECTION) NURSES AGREEMENT 2023

Health and welfare services

COMMISSIONER MATHESON

SYDNEY, 25 JULY 2023

Application for approval of the Royal Flying Doctor Service of Australia (South Eastern Section) Nurses Agreement 2023

[1] An application has been made for approval of an enterprise agreement known as the *Royal Flying Doctor Service of Australia (South Eastern Section) Nurses Agreement 2023* (Agreement). The application was made by the Royal Flying Doctor Service of Australia (South Eastern Section) (Applicant) pursuant to s.185 of the *Fair Work Act 2009* (Cth) (Act). The Agreement is a single enterprise agreement.

[2] Changes to the Act came into effect on 6 June 2023 in relation to genuine agreement. The Form F17A indicates that the notification time for the Agreement was 26 February 2020. In these circumstances and as a consequence of the *Fair Work Legislation Amendment (Secure Jobs, Better Pay) Act 2022* (Amending Act), clause 66 of Part 13 of Schedule 1 of the Act has the effect that despite the amendments made to the Act by Part 14 of Schedule 1 to the Amending Act, Part 2-4 of the Act continues to apply as if the amendments had not been made. The application has been assessed on this basis, taking into account the provisions of Part 2-4 of the Act relating to genuine agreement in force immediately prior to the commencement of the amendments.

[3] The Applicant, who is also the employer covered by the Agreement, has provided written undertakings. A copy of the undertakings is attached at Annexure A of this decision (Undertakings). The views of each person I know is a bargaining representative for the Agreement were sought in relation to the Undertakings and no objections were raised. I am satisfied that the effect of accepting the Undertakings is not likely to:

- (a) cause financial detriment to any employee covered by the Agreement; or
- (b) result in substantial changes to the Agreement.

[4] Pursuant to s.190(3) of the Act, I accept the Undertakings.

[5] Subject to the Undertakings, and on the basis of the materials before the Commission, I am satisfied that each of the requirements of ss.186, 187, 188 and 190 of the Act as are relevant to the application for approval of the Agreement have been met.

[6] There is an error in clause 2.1(a) of the Agreement in that it incorrectly refers to the 'Royal Flying Doctor Service (South Eastern Section)' as a party to the Agreement with the ABN 86 000 032 422 (ABN). The ABN relates to the entity 'Royal Flying Doctor Service of Australia (South Eastern Section)' which is the name of the Applicant and employer intended to be covered by the Agreement. The Applicant submitted that the error in relation to the employer's name in clause 2.1(a) of the Agreement is an 'obvious error' for the purposes of s.218A of the Act and applied for a correction. I am satisfied that the error is an obvious error for the purposes of s.218A of the Act and vary the name of the employer referenced in clause 2.1(a) of the Agreement so that it reflects the correct employer name, being 'Royal Flying Doctor Service of Australia (South Eastern Section)'. The variation applies from the date of the Agreement's operation.

[7] The Australian Nursing and Midwifery Federation, being a bargaining representative for the Agreement, has given notice under s.183 of the Act that it wants the Agreement to cover it. In accordance with s.201(2) of the Act, I note that the Agreement covers the organisation.

[8] The Agreement is approved and, in accordance with s.54 of the Act, will operate from 1 August 2023. The nominal expiry date of the Agreement is 31 December 2025.



COMMISSIONER

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Annexure A

IN THE FAIR WORK COMMISSION

FWC Matter No.:
AG2023/2150

Applicant: **ROYAL FLYING DOCTOR SERVICE OF AUSTRALIA (SOUTH EASTERN SECTION)**

Section 185 – Application for approval of a single enterprise agreement

Undertaking - Section 190

I, Brent Pitts, General Manager – Corporate Services for Royal Flying Doctor Service of Australia (South Eastern Section) give the following undertakings with respect to the *Royal Flying Doctor Service of Australia (South Eastern Section) Nurses Agreement 2023* ("the Agreement"):

1. I have the authority given to me by Royal Flying Doctor Service of Australia (South Eastern Section) to provide this undertaking in relation to the application before the Fair Work Commission.
2. I undertake that in relation to clause 9 of the Agreement, the definition of "shift worker" will be deleted and the following definition will be inserted in its place:

"Shift worker" for the purposes of the NES means an employee who is regularly rostered over seven (7) days of the week and regularly works on weekends.
3. I undertake that in relation to subclause 41.2(a) of the Agreement to provide clarity, the words "190 hours" will be replaced with "5 weeks (or 190 hours)".
4. I undertake that in relation to subclause 41.3(a) of the Agreement to provide clarity, the words "228 hours" will be replaced with "6 weeks or 228 hours".
5. I undertake that in relation to subclause 56.5 of the Agreement, the subclause will be deleted and replaced with the following:

56.5 If the employee is at least 18 years old and fails to give the required notice the RFDSSE can deduct from their final pay an amount equivalent to the employee's Base Salary for the period of notice not given (up to the value of one week's wages).
6. I undertake that the Agreement will be read and interpreted in conjunction with the National Employment Standards (NES). Where there is an inconsistency between the Agreement and the NES, and the NES provides a greater benefit, the NES provision will apply to the extent of the inconsistency.

These undertakings are provided on the basis of issues raised by the Fair Work Commission in the application before the Fair Work Commission.

A handwritten signature in blue ink, appearing to read 'Brent Pitts', is centered on the page.

Brent Pitts, GM Corporate Services

Signature

25-07-2023

Date