



DECISION

Fair Work (Transitional Provisions and Consequential Amendments) Act 2009
Sch. 3, Item 20A(4) - Application to extend default period for agreement-based transitional instruments

B.G. & D.M. Tonge Pty Ltd
(AG2023/4904)

B.G. & D.M. TONGE PTY LTD EMPLOYEE COLLECTIVE AGREEMENT

Fast food industry

DEPUTY PRESIDENT WRIGHT
DEPUTY PRESIDENT O'KEEFFE
COMMISSIONER LIM

SYDNEY, 22 APRIL 2024

Application to extend the default period for the B.G. & D.M. Tonge Pty Ltd Employee Collective Agreement

Introduction

[1] Pursuant to subitem 20A(4) of Sch 3 to the Fair Work (Transitional Provisions and Consequential Amendments) Act 2009, B.G. & D.M. Tonge Pty Ltd has applied to extend the default period for the B.G. & D.M. Tonge Pty Ltd Employee Collective Agreement (the Agreement).

[2] The Agreement would have terminated in accordance with subitem 20A(1) on 6 December 2023 save that an application under subitem 20A(4) to extend the Agreement has been made. The Agreement continued pending our decision in that application.

[3] Subitem 20A(6)(b), allows the Commission to extend on the ground that it is reasonable in the circumstances to do so. The circumstances here are that since the application was made an enterprise agreement has been approved by the Commission under the *Fair Work Act 2009* which covers the same, or substantially the same, group of employees as are covered by the Agreement.¹

[4] The replacement agreement commenced operation on 12 April 2024. The purpose of the extension is to ensure the Agreement continued to apply for the period between the termination date of 6 December 2023 in subitem 20A(1) up until the replacement enterprise agreement commenced.

[5] We are satisfied for the purpose of subitem (6)(b) that it is reasonable to extend the default period for the Agreement.

[6] Pursuant to item 20A(4) of Sch 3 to the Transitional Act, we order that the default period for the Agreement is extended until 7 days after the approval decision of the new replacement agreement on 12 April 2024.

[7] The Agreement is published, in accordance with subitem 20A(10A)(c), on the Fair Work Commission's website.



DEPUTY PRESIDENT

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¹ [\[2024\] FWCA 1231](#).