



# DIRECTIONS

*Fair Work Act 2009*  
s.225—Enterprise agreement

**Chantelle Zentveld**  
(AG2022/142)

**IPCA (VIC, ACT & NT) ENTERPRISE AGREEMENT 2011**  
(ODN AG2011/7098) [AE886936]

Fast food industry

DEPUTY PRESIDENT YOUNG

MELBOURNE, 23 FEBRUARY 2022

*Application for the termination of the IPCA (VIC, ACT & NT) Enterprise Agreement 2011*

[1] An application has been filed by Ms Chantelle Zentveld (the Applicant) seeking the termination of the *IPCA (VIC, ACT & NT) Enterprise Agreement 2011* (the Agreement). The Application has been lodged seeking termination of the Agreement after its nominal expiry date under section 225 of the *Fair Work Act 2009* (the Application).

[2] The Agreement covers the Independent Purchasing Company (Australasia) Limited T/A Subway, the employers specified in the single interest employer authorisation issued on 5 January 2011 (PR505633), and varied on 15 February 2011 (PR506760) and 21 July 2011 (PR512363) and all its employees employed by the employer in the Job Classifications set out in the Agreement.

[3] If the application to terminate the Agreement is granted, the Agreement would cease to apply and the wages and conditions of the employees covered by the Agreement would likely be governed by the [Fast Food Industry Award 2010](#) (the Award).

[4] As such, if the Agreement is terminated, the Award will set terms and conditions of employment for employees. Employees are encouraged to further consult the [Award](#) for other information outlining employment terms and conditions that might apply to them, if the Agreement is terminated.

## LEGISLATION

[5] The Commission must be satisfied that the requirements in s.225 and s.226 of the *Fair Work Act 2009* (Act) are met prior to approving the termination of the Agreement.

[6] Section 225 of the Act provides as follows:

**“225 Application for termination of an enterprise agreement after its nominal expiry date**

If an enterprise agreement has passed its nominal expiry date, any of the following may apply to the FWC for the termination of the agreement:

- (a) one or more of the employers covered by the agreement;
- (b) an employee covered by the agreement;
- (c) an employee organisation covered by the agreement.”

[7] Section 226 of the Act provides as follows:

**“226 When the FWC must terminate an enterprise agreement**

If an application for the termination of an enterprise agreement is made under section 225, the FWC must terminate the agreement if:

- (a) the FWC is satisfied that it is not contrary to the public interest to do so; and
- (b) the FWC considers that it is appropriate to terminate the agreement taking into account all the circumstances including:
  - (i) the views of the employees, each employer, and each employee organisation (if any), covered by the agreement; and
  - (ii) the circumstances of those employees, employers and organisations including the likely effect that the termination will have on each of them.”

**DIRECTIONS**

[8] The directions issued on 1 February 2022 are vacated.

[9] **By close of business Wednesday, 9 March 2022**, Subway Systems Australia Pty Ltd (SSA) is to provide a schedule of employers currently covered by the Agreement reconciled against the employers covered by the Agreement already served by the Applicant (Reconciled Schedule) to the Applicant. The Reconciled Schedule is to include, but not limited to, the following:

- (a) whether there has been a transfer of business since the commencement of the Agreement;
- (b) the name of the new operating entity;
- (c) the name of the new franchisee; and
- (d) email addresses for all persons listed in the schedule.

[10] **By close of business Wednesday, 9 March 2022**, the Independent Purchasing Company (Australasia) Limited and the SSA are to issue a statement to all employers currently covered by the Agreement (Employers) explaining the process of the Application thus far.

[11] **By close of business Wednesday, 16 March 2022**, the Applicant is to provide a copy of the following documents to all the Employers covered by the Agreement:

- (a) these Directions;
- (b) *Form F24B – Application for termination of an enterprise agreement after the nominal expiry date* filed by the Applicant on 20 January 2022; and
- (c) *Form F24C – Statutory declaration* dated 20 January 2022 made by Ms Chantelle Zentveld.

[12] The Applicant is to file proof of compliance with direction [11] with the Chambers of Deputy President Young at [chambers.young.dp@fwc.gov.au](mailto:chambers.young.dp@fwc.gov.au) at this time.

[13] **By close of business Wednesday, 23 March 2022**, each of the Employers are to provide a copy of the material set out at [11] to each of their employees that are covered by the Agreement via email. A copy should also be placed on a noticeboard at each workplace that is used for communications with staff.

[14] Each Employer is to file proof of compliance with direction [13] with the Chambers of Deputy President Young at [chambers.young.dp@fwc.gov.au](mailto:chambers.young.dp@fwc.gov.au) at this time.

[15] **By close of business Wednesday, 6 April 2022**, the Applicant is to file in the Commission, and serve on all Employers and the Independent Purchasing Company (Australasia) Limited T/A Subway, any further material in support of her application to terminate the Agreement, including material outlining her views, circumstances, and the likely effect the termination of the Agreement will have on her. Each Employer must then provide to all of its employees covered by the Agreement via email, any material upon which the applicant relies.

[16] **By close of business Wednesday, 20 April 2022**, any employee who wishes to do so, is directed to file in the Commission, the serve on the Applicant, their Employer, and the Independent Purchasing Company (Australasia) Limited T/A Subway any material and witness statements upon which they rely, including:

- Material which addresses whether it is or is not contrary to the public interest for the Commission to terminate the Agreement (s.226(a) of the Act);
- Material which expresses the views of the employee regarding the application to terminate the Agreement (s.226(b)(i) of the Act); and
- Material which describes the circumstances of the employee, including the likely effect that the termination of the Agreement would have on them. This may include submissions on the impact of the Agreement no longer applying to them and the *Fast Food Industry Award 2010* instead setting the terms and conditions of employment (s.226(b)(ii) of the Act).

[17] **By close of business Wednesday, 20 April 2022**, the Independent Purchasing Company (Australasia) Limited T/A Subway and/or any Employer covered by the Agreement are directed to file in the Commission, and serve on the Applicant, and all of their employees via email, material and witness statements upon which it relies, including:

- Material which addresses whether it is or is not contrary to the public interest for the Commission to terminate the Agreement (s.226(a) of the *Fair Work Act 2009*);
- Material which expresses the view of the Employer regarding the application to terminate the Agreement (s.226(b)(i) of the Act); and
- Material which describes the circumstances of the Employer, including the likely effect that the termination of the Agreement would have on it. This may include submissions on the impact of the Agreement no longer applying to it and the *Fast Food Industry Award 2010* setting the terms and conditions of employment (s.226(b)(ii) of the Act).

[18] **By close of business Wednesday, 27 April 2022**, the Applicant is to file in the Commission and serve on all Employers and the Independent Purchasing Company (Australasia) Limited T/A Subway any material upon which they rely in reply. Each Employer must then provide to all of its employees covered by the Agreement via email, any material upon which the applicant relies in reply.

[19] All material to be sent to the Fair Work Commission in accordance with the above Directions should be sent to: [chambers.young.dp@fwc.gov.au](mailto:chambers.young.dp@fwc.gov.au)

[20] All material to be sent to the Applicant should be sent to: [angelo@sda.org.au](mailto:angelo@sda.org.au)

[21] All material to be sent to the Independent Purchasing Company (Australasia) Limited T/A Subway should be sent to: [james.sanders@mst.com.au](mailto:james.sanders@mst.com.au)

[22] All material filed will be uploaded to [Application to terminate the IPCA \(VIC, ACT & NT\) Agreement 2011 | Fair Work Commission \(fwc.gov.au\)](#).



DEPUTY PRESIDENT

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