



**Russell Kennedy
Lawyers**

Workplace Relations Checklist

Are you ready for enterprise bargaining?

December 2016

Enterprise agreements can be a useful tool for simplifying and adapting the complex web created by the *Fair Work Act 2009* and the multiple modern awards that may apply to a single organisation.

Employers often engage in enterprise bargaining directly, rather than outsourcing the process to lawyers or experienced industrial relations experts. However, before commencing the bargaining process, it is essential that employers clearly understand the obligations they have during the process as one small misstep can result in the Fair Work Commission rejecting an enterprise agreement that has been voted up by employees.

With that in mind, here are ten initial questions an organisation's key decision-makers should be able to answer before commencing the bargaining process:

- Do you know which employees you would like covered by the enterprise agreement?
- Do you know the modern award(s) against which your organisation's enterprise agreement will be compared when the Fair Work Commission is deciding whether it passes the Better Off Overall Test?
- Have you prepared a list of the issues which you want the enterprise agreement to address, and determined your position on those issues?
- Have you thought about what your employees might want in the enterprise agreement, and what you are prepared to agree upon?
- Do you know who will be representing your employees during the bargaining process?
- Are you ready to give your employees a notice of representational rights? Do you have the correct form?
- Do you understand your good faith bargaining obligations?
- Do you know what forms of industrial action your employees might take, and what that would mean for your business?
- Do you understand the access period and voting process required for an enterprise agreement?
- Do you know the timeframes and documentation requirements for lodging your approved enterprise agreement with the Fair Work Commission?

If you get the process wrong and your agreement is rejected by the Commission, you may have to initiate the whole voting process again, which can be very disruptive. The outcome could have significant financial or reputational consequences for your business. Please contact the [Russell Kennedy Workplace Relations, Employment and Safety team](#) if you would like assistance with the enterprise bargaining process.