

SUPPORTED BARGAINING STREAM

What is it, and what is new?

The supported bargaining stream replaces the current low paid bargaining stream.

A supported bargaining authorisation must be made by the Fair Work Commission (FWC) and impacts how bargaining is conducted, and the rights of the parties

Employers can't bargain for a single-enterprise agreement if a supported bargaining authorisation is in place.

What are the key rights and requirements?

- » The gateway to supported bargaining is a supported bargaining authorisation.
- » The FWC must grant an application for a supported bargaining declaration if it is satisfied that making the authorisation is "appropriate", having regard to:
 - prevailing rates of pay in the industry or sector (including whether low rates prevail);
 - whether the employers have a "clearly identifiable common interest";
 - whether the likely number of bargaining representatives would be consistent with a manageable bargaining process;
 - any other matters FWC considers appropriate;
- » FWC will decide whether there is a "common identifiable interest". Relevant considerations that will be taken into account include:
 - the Geographical location of the enterprises;
 - the nature of the enterprises;
 - the terms and conditions of the employees in those enterprises; and
 - being substantially funded, directly or indirectly, by the Commonwealth, a State or a Territory.
- » The Minister also has the power to issue a declaration that requires the FWC to issue an authorisation in relation to an industry, occupation or sector.

- » If a supported bargaining authorisation is made:
 - The union(s) that applied for the authorisation becomes the default bargaining representative for all employees specified in the authorisation who they are eligible to represent, provided they are not members of another union or have not appointed another bargaining representative;
 - Applications can be made for Good Faith Bargaining Orders;
 - Applications can be made for assistance in resolving bargaining disputes, without the consent of other bargaining representatives;
 - The FWC can provide assistance to the bargaining representatives on its own initiative;

- The union will be able to apply for a Protected Action Ballot Order (PABO) in relation to the bargaining (120 hours' notice period will apply); and
- Employers can't bargain for a single-enterprise agreement.
- » Once a Supported Bargaining Agreement is made, new employees can be added to the Agreement with their employer's consent. If the employer does not consent, the FWC may still add the employees if it is "appropriate" and there is a "common identifiable interest" and a majority of employees in that workplace support the Agreement.

Strategic considerations for your union

Coordinate:

- » How can we best co-ordinate across the movement to bargain across sectors and industries where coverage overlaps?

Growth:

- » How do we drive growth whilst bargaining across an industry?
- » How do we manage the addition of new workplaces to supported bargaining agreements and drive growth?

Precedent:

- » The meaning of common identifiable interest will be determined by litigation. How do we ensure the best possible cases are tested?

**EQUIP
PLAN
WIN**

EQUIP

- **IR LAW FORUMS**
(7 - 19 Feb) - Respect, Equity, Bargaining 1/2/3 and Electives
- **LEGISLATION BRIEFING NOTES**
- **FACT SHEETS**

PLAN

- **STRATEGIC LEADERSHIP MEETING** (20 - 21 Feb)
- **UNION INTERNAL PLANNING**

WIN

- **MOVEMENT WIDE EDUCATION**
- **COORDINATION**
- **GOOD PRECEDENTS**
- **GROWTH AND POWER**