

What is an enterprise agreement?

For the purposes of the Fair Work Act 2009, an “enterprise” is a business, activity, project or undertaking.

An enterprise agreement is a collective agreement made at the enterprise level between employer(s) and their employees.

It provides the terms and conditions of employment for those employees to whom it applies. It also sets out the rights and obligations of the employer(s) and any employee organisation(s) that it covers.

There are three types of enterprise agreements.

- 1. Single-enterprise agreements** are made between a group of employees and an employer or two or more employers that are single interest employers. “Single interest employers” are employers that are related bodies corporate, or are engaged in a joint venture or common enterprise, or have been specified in a single interest employer authorisation. A “single interest employer authorisation” permits employers that have a close connection with one another to bargain together for a single-enterprise agreement. Franchisees and those employers approved by a Ministerial declaration may apply to Fair Work Australia to be included in a single interest employer authorisation.
- 2. Multi-enterprise agreements** are made between two or more employers and groups of their employees. Employers must voluntarily agree to bargain together for a multi-enterprise agreement, with the exception of employers specified in a low-paid authorisation. A multi-enterprise agreement that is Greenfields agreement cannot be made with two or more employers specified in a low-paid authorisation. This is because a Greenfields agreement, by definition, cannot be made once the employers have employed persons that will be covered by the agreement.

3. Greenfields agreements can only be made in relation to a genuine new enterprise, before the employer has engaged any employees who will be covered by the enterprise agreement. These agreements are made between employer(s) and employee organisation(s) that are entitled to represent the majority of the employees who will be covered by the agreement. A genuine new enterprise does not include an existing enterprise that an employer(s) acquires, or proposes to acquire, which has been previously carried out by another employer. For example, a supermarket operator could not make a Greenfields agreement if it acquired a chain of liquor stores in a transfer of business situation. The nature of the genuine new enterprise may nonetheless be the same or similar to the employer's existing enterprise, particularly in the case of a new project. For example, an existing employer in the construction industry could make a Greenfields agreement in relation to a genuine new construction project. However, an existing employer, such as a major retailer, could not make a Greenfields agreement in relation to a new store that it is proposing to establish if that store is part of the employer's existing enterprise.