

[2024] FWCFB 80 [Note: A copy of the zombie agreement to which this decision relates ([AC327591](#)) is available on our website.]



DECISION

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

ERG Electrics Pty Ltd T/A Erg Electrics
(AG2023/4678)

ERG ELECTRICS PTY LTD COLLECTIVE AGREEMENT 2008 - VARIATION MAY 2009

DEPUTY PRESIDENT WRIGHT
DEPUTY PRESIDENT SLEVIN
DEPUTY PRESIDENT GRAYSON

SYDNEY, 15 FEBRUARY 2024

Application to extend the default period for ERG Electrics Pty Ltd Collective Agreement 2008 - Variation May 2009

[1] ERG Electrics Pty Ltd T/A Erg Electrics applies pursuant to subitem 20A(4) of Sch 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth), to extend the default period for the *ERG Electrics Pty Ltd Collective Agreement 2008 - Variation May 2009* (the Agreement).

[2] The application is made in accordance with subitem 20A(6)(a) on the grounds that bargaining is occurring for a proposed enterprise agreement that will cover the same, or substantially the same, group of employees as are covered by the Agreement and that it is appropriate to do so. The application was made after the notification time for the proposed enterprise agreement.

[3] The Full Bench in *ISS Health Services Pty Ltd*¹ described the requirements that must be met for an application to extend the default period where bargaining for a replacement agreement is made.

[4] We are satisfied on the material provided that the requirements in subitem (6)(a) are met and that it is appropriate to extend the default period. The applicant has commenced bargaining for a replacement agreement and we consider that an extension until 6 June 2024 is sufficient time for a replacement agreement to be made and approved.

[5] Pursuant to item 20A(6) of Sch 3 to the *Fair Work (Transitional Provisions and Consequential Amendments) Act 2009* (Cth), we order that the default period for the Agreement is extended until 6 June 2024.

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



DEPUTY PRESIDENT

Printed by authority of the Commonwealth Government Printer

<AC327591 PR771490>

¹ [\[2023\] FWCFB 122](#)