



**SENATOR THE HON MURRAY WATT
MINISTER FOR AGRICULTURE, FISHERIES AND FORESTRY
MINISTER FOR EMERGENCY MANAGEMENT**

Senator the Hon Sue Lines
President of the Senate
PO Box 6100
Senate
Parliament House
CANBERRA ACT 2600

By email: senator.lines@aph.gov.au

Dear Madam President,

I write to you regarding Senate Order for the Production of Documents No. 30 of 7 September 2022, which requires the tabling of documents relating to industrial relations matters.

On behalf of the Minister for Employment and Workplace Relations, the Hon Tony Burke MP, please find enclosed a letter relating to the order for out of sitting tabling pursuant to Senate Standing Order 166 at your discretion.

Yours sincerely

A handwritten signature in black ink, appearing to read 'M. Watt'.

SENATOR THE HON MURRAY WATT

14/9/2022

Encl. Documents pertaining to Senate Order for the Production of Documents No. 30



The Hon Tony Burke MP
Minister for Employment and Workplace Relations
Minister for the Arts
Leader of the House of Representatives

Reference:

Senator the Hon Murray Watt
Minister for Agriculture; Fisheries, and Forestry; Minister for Emergency Management
Parliament House
CANBERRA ACT 2600

By email: senator.watt@aph.gov.au

Dear Minister,

I write to you regarding Senate Order for the Production of Documents No. 30 of 7 September 2022 (Senate Order), which requires the tabling of documents relating to industrial relations matters. The Senate Order is attached to this letter.

Documents that are within the scope of the Senate Order are enclosed. Information that is unrelated to the Senate Order has either been redacted or not provided (if a full page), and personal information and contact details that are not public have also been redacted.

I enclose for your signature, letter to the Senate President and the documents identified by my department and office that are within the scope of the Senate Order.

Given it is no longer a sitting week, I ask that you present the documents out of sitting pursuant to Senate Standing Order 166.

Yours sincerely

THE HON TONY BURKE MP

13 / 9 / 2022

Encl. Senate Order for the Production of Documents No. 30 of 7 September 2022 and Letter for signature by Senator the Hon Murray Watt

Archived: Monday, 12 September 2022 1:02:41 PM

From: [REDACTED]

Sent: Thu, 1 Sep 2022 21:29:59

To: [REDACTED]

Cc: [REDACTED]

Subject: Minister Burke - Letter to FWC President - 1 Sept 22 (006) [SEC=OFFICIAL]

Sensitivity: Normal

Attachments:

[Minister Burke - Letter to FWC President - 1 Sept 22 \(006\).docx](#);

Hi [REDACTED]

Please find attached a draft letter from the Minister to the President of the Fair work Commission.

Martin Hehir



The Hon Tony Burke MP
Minister for Employment and Workplace Relations
Minister for the Arts
Leader of the House

The Hon Justice Iain Ross AO
President
Fair Work Commission
PO Box 1994
MELBOURNE VIC 3000

via email: chambers.ross.j@fwc.gov.au

Dear President Ross

The Jobs and Skills Summit held this week brought together unions, employers, civil society and government to discuss our shared economic challenges and immediate and long-term solutions. There was a strong focus on how the workplace relations system can boost job security and real wages as well as ensuring workplaces are safe, fair and productive.

All parties at the summit acknowledged the work of the Fair Work Commission in achieving these goals. With respect to bargaining in particular, parties noted their desire for enhanced engagement from the Commission to proactively help workers and businesses reach agreements that benefit them.

Other commitments included business, unions and Government working proactively together to strengthen tripartism and constructive social dialogue in Australian workplace relations and working proactively together to revitalise a culture of creativity, productivity, good faith negotiation and genuine agreement in Australian workplaces.

A further commitment given in connection with the summit was that the Government would seek to legislate to ensure the process for enterprise agreement termination is fit for purpose and fair. The Government's reforms will be aimed at limiting the circumstances in which employers can apply unilaterally to the Commission for termination of an agreement where termination would result in reducing employees' entitlements. The Government is concerned by the practice of some employers threatening to terminate agreements as a bargaining tactic.

I am conscious that there is always the possibility that some employers may seek to terminate agreements prior to any amendments being enacted and acknowledge that the Commission will always consider the range of issues required by s226 before terminating an agreement, including that it is not contrary to the public interest to do so, as well as the likely effect termination will have on employees and employers.

My Department will commence detailed consultation on matters arising out of the Jobs and

Skills Summit next week with a view to developing amendments to the *Fair Work Act 2009* as soon as possible.

Yours sincerely

THE HON TONY BURKE MP

/ / 2022

Archived: Monday, 12 September 2022 1:02:14 PM

From:

To:

Cc:

Subject: Letter from Minister Burke

Sensitivity: Normal

Attachments:

[Letter to Fair Work Commission 20220902.pdf](#) 

Dear President Ross

Please find attached correspondence from Minister Burke

kind regards


Departmental Liaison Officer - Employment

Office of the Hon Tony Burke MP

Minister for Employment and Workplace Relations

Leader of the House of Representatives



The Hon Tony Burke MP
Minister for Employment and Workplace Relations
Minister for the Arts
Leader of the House

The Hon Justice Iain Ross AO
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My Department will commence detailed consultation on matters arising out of the Jobs and

Skills Summit next week with a view to developing amendments to the *Fair Work Act 2009* as soon as possible.

Yours sincerely

A handwritten signature in blue ink that reads "Tony Burke". The signature is fluid and cursive, with the first name "Tony" written in a smaller, more compact script than the last name "Burke".

THE HON TONY BURKE MP

2 / 9 / 2022

cc NWRCC members.

From: [REDACTED]
Sent: Wed, 31 Aug 2022 13:38:21

To: [REDACTED]
Cc: [REDACTED]

Subject: WR Job Summit material - Fact sheet/Q and A's [SEC=OFFICIAL:Sensitive]
Sensitivity: Normal

Attachments: 2022 08 31 Agreement Making Fact Sheet.docx; 2022 08 31 [REDACTED]
[REDACTED] Bargaining facts and
figures.docx; 2022 08 31 [REDACTED]
[REDACTED]
[REDACTED]; 2022 08 31 Cooperative Workplaces Fact Sheet.docx;
[REDACTED]; 2022 08 31 Strengthening Tripartism Fact Sheet.docx;

ATT00393;
Archived: Monday, 12 September 2022 1:02:54 PM

OFFICIAL: Sensitive

Dear [REDACTED] and [REDACTED]

Please find WR fact sheets/Q and A's in preparation for the Jobs Summit tomorrow.

In addition, immediately below the table are answers to specific questions that were asked of us today from your Office.

All the best for tomorrow, and please let me know if there is anything further you need.

Kind regards
Jen

Topic	Fact sheet/ Q and A's	Supporting document/s
Agreement making [with bargaining facts and figures supporting document]		
[REDACTED]		
[REDACTED]		
Cooperative workplaces		
[REDACTED]		
[REDACTED]		
[REDACTED]		

employers' individual circumstances, meaning there is very little or no negotiation involved.

- o Employee protected industrial action cannot be organised or taken where a bargaining representative is engaging in pattern bargaining in relation to the agreement.

[Redacted]

Jen Wettinger
Assistant Secretary

Economics and International Labour
Employment Conditions
Australian Government Department of Employment and Workplace Relations
[Redacted]
dewr.gov.au
[Redacted]

The Department of Employment and Workplace Relations acknowledges the traditional owners and custodians of country throughout Australia and their continuing connection to land, waters and community. We pay our respects to them and their cultures, and Elders past, present and emerging.

OFFICIAL: Sensitive

OFFICIAL: Sensitive



Strengthening tripartism and social dialogue

Overview

Business, unions and government commit to work proactively together to strengthen tripartism and constructive social dialogue in Australia.

Talking Points

- 1 Business, unions and government have committed to work proactively together to strengthen tripartism and constructive social dialogue in Australia.
- 2 Workplace reforms are crucial if we are to support the Australian economy, help business innovate, improve wages, conditions and safety for workers. And working cooperatively needs to be at the heart of this.
- 3 The Government will also work with business and unions in the coming months to identify the parameters of a funding program to support implementation of the Governments reforms at the workplace level.

Facts and Figures

- 1 The Government will work with business and unions to ensure existing governance structures support a renewed focus on tripartism and social dialogue.
- 2 Initial funding may be provided to key representative organisations to support development of an appropriate tripartite governance model.
- 3 Any allocation of funding will be determined through a funding process, in line with government procurement rules.

Questions and Answers

What does this commitment mean in practical terms?

- This announcement is a recognition and a commitment to work together and engage broadly on important workplace issues that impact on so many Australians.
- To support this important commitment, the Government will work with business and unions to ensure existing governance structures, which were designed to engage on workplace reforms, are still fit for purpose.

Will the Government provide funding to organisations to engage in tripartism and social dialogue?

- This has not yet been determined.
- Any allocation of funding will be determined through a funding process, in line with government procurement rules.



Cooperative Workplaces

Overview

The Government will consider additional funding to help the Fair Work Commission build cooperative workplace relationships.

Cooperative Workplaces assists parties to work together to bargain more effectively, prevent disputes before they occur and develop cooperative and productive workplaces.

Talking Points

- 1 There was broad support among union and employer representatives for expanding Cooperative Workplaces and the Government will carefully consider this proposal.
- 2 Expanding the Cooperative Workplaces program will help deliver on the Government's commitment to support the uptake of bargaining, thereby improving workplace productivity and facilitating real wages growth.
- 3 The program supports parties in reaching agreement and establishing processes for future negotiation through training, workshops, discussion, and facilitation by the independent umpire, the Fair Work Commission.

Facts and Figures

- Better bargaining has been linked to increased pay, conditions, and productivity – representing a win-win for workers and business.

Questions and Answers

What is the Cooperative Workplaces program?

- The Cooperative Workplaces program is a free program offered by the Fair Work Commission that helps parties build cooperative working relationships using interest-based approaches in areas like bargaining, consultation and problem solving.
- The program started in 2014 following consultations with key stakeholders including the ACTU, ACCI and AiG.
- Through the Cooperative Workplaces program, the Fair Work Commission helps employers and employees to work together effectively to prevent disputes before they develop, and to promote cooperative and productive workplaces.

What are the benefits of the Cooperative Workplaces program?

- A range of employers and unions have taken part in the Cooperative Workplaces program in the past, including in the health, transport, manufacturing, media, waste management, electrical contracting, building and construction and aged care industries.
- Participants in the program have reported more cooperative and more productive workplaces.
- For some this meant avoiding industrial action through cooperation and collaborative problem solving. Others reported developing innovative solutions that would have been unlikely through traditional, positional approaches. Some participants reported longer term outcomes like increased productivity, engagement and employee satisfaction.

What is interest-based bargaining?

- Traditionally, enterprise bargaining is adversarial. Parties approach the process with pre-determined positions or a log of claims.
- Interest-based bargaining is a key part of the Cooperative Workplaces program and is different: it is consensus-seeking and cooperative. It focuses on the interests that underlie positions or claims.
- Interest-based bargaining can lead to better agreements, increased trust and stronger acceptance of the final agreement, resulting in more certainty for employers and employees.

Why expand the Cooperative Workplaces program?

- The Cooperative Workplaces program leads to more cooperative and more productive workplaces.
- Expanding the program means that the Fair Work Commission will be able assist more workplaces, whether its during bargaining, to deal with a dispute or to deal with major workplace change.
- Expanding the Cooperative Workplaces program will allow the Fair Work Commission to make information about the program and interest-based bargaining more broadly available to parties ahead of bargaining for a new enterprise agreement.

How will the Cooperative Workplaces program increase bargaining?

- The Cooperative Workplaces program successfully improves enterprise bargaining outcomes, making it accessible and attractive for businesses and their workforces.
- This includes cases where the Fair Work Commission introduced an interest-based approach at the beginning of bargaining and after bargaining had started, including after a failed vote, disputed protected action ballot application or agreement approval application.
- There is clearly a valuable opportunity for the Fair Work Commission to help more businesses to bargain for an enterprise agreement.

Will Cooperative Workplaces increase wages?

- Bargaining can lead to increased productivity and wages. Employees working under an enterprise agreement earn on average 71 per cent more than employees paid under a modern award.
- What the program will do is assist parties to bargain more effectively. It will lead to more cooperative and productive workplaces by using interest-based bargaining to help employers and employees address immediate issues, such as industrial disputes and conflicts during bargaining, and set up processes that work in the long term.
- For example, Aruma (a disability service provider) and its union reported they had fewer disputes going to the Fair Work Commission by developing their capacity to resolve disputes internally after taking part in the program. This means that employees and employers can focus on their work rather than spending time on acrimonious disputes.



Bargaining Factsheet

Jobs Summit 2022

Australia's enterprise bargaining system should be a key enabler of productivity growth, wages growth, and secure, well-paid work.

Enterprise bargaining is an important contributor to economic prosperity and wages growth with OECD research¹ on enterprise bargaining showing that:

- There is a wage premium for employees covered by an enterprise agreement;
- It can reduce wage inequality and the gender pay gap; and
- It is linked with higher employment and lower unemployment (including for young people, women, and low-skilled workers).

Improving enterprise bargaining and ensuring greater access for employers and employees to negotiate fair pay and minimum conditions can drive productivity improvements and innovation at the firm level. This creates cooperative workplace relationships which benefits employees, through higher wages and better conditions, and businesses, through productivity improvements and profits.

Improving enterprise bargaining can also drive aggregate wage growth outcomes, given that almost 2 in 5 employees have their pay set by an enterprise agreement and enterprise bargaining contributes to almost half of all aggregate wage growth, ahead of awards and individual arrangements (11 per cent and 41 per cent respectively).²

Potential reforms to enterprise bargaining are focussed on improving outcomes for significant sectors of the economy including small businesses, women and feminised industries and the service sectors. Even in smaller sectors of the economy, improving access to enterprise bargaining can have material impacts at the firm level and could flow on to the broader economy given the disproportionately large contribution of enterprise bargaining to aggregate wages growth.

Re-invigorating enterprise bargaining will drive outcomes through productivity improvements which are an important driver of real wages and higher living standards, and are unlikely to create additional inflationary pressures. The current high inflation environment, which is occurring globally, has not been driven by high wages growth, in fact real wages growth in Australia has been negative for the past year. As repeatedly said by the Treasurer, if we get real wages growing in a sustainable way based on productivity growth, then we will not be adding to inflation.

¹ OECD 2018, The role of collective bargaining systems for labour market performance; OECD 2020, Can collective bargaining help close the gender wage gap for women in non-standard jobs?

² ABS, Wage Setting Methods and Wage Growth in Australia, 2018

There has been a steady decline in bargaining over the past decade

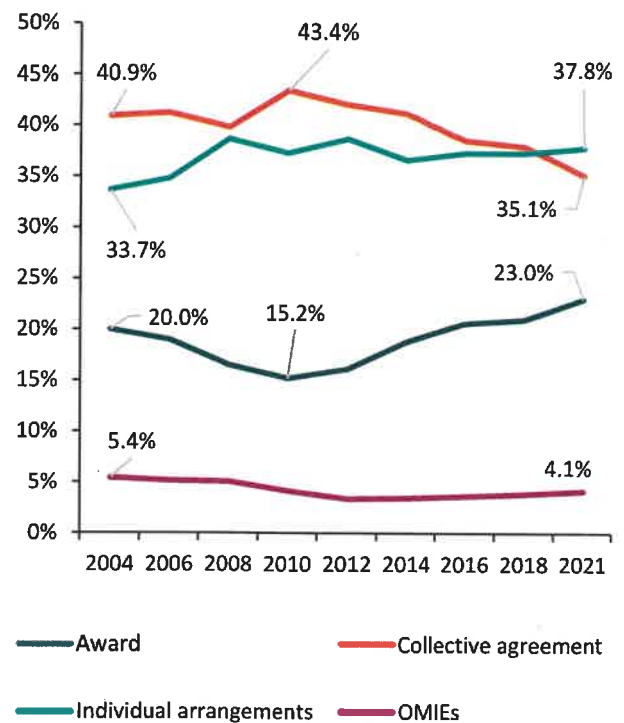
The share of employees who have had their pay set by an enterprise agreement has declined significantly, from **43.4 per cent in 2010 to 35.1 per cent in 2021**. Analysis from the Department of Employment and Workplace Relations shows that around 14.7 per cent of employees are covered by current (not expired or replaced) enterprise agreements (as at 31 March 2022). This is down from 24.9 per cent at 31 March 2010.

Table 1: Share of employees by method of setting pay, 2000-2021

	Enterprise agreement	Award	Individual agreement	Owner-managers of incorporated businesses
2000	36.8%	23.2%	40.0%	-
2002	38.2%	20.5%	41.3%	-
2004	40.9%	20.0%	33.7%	5.4%
2006	41.2%	19.0%	34.8%	5.1%
2008	39.8%	16.5%	38.7%	5.0%
2010	43.4%	15.2%	37.3%	4.1%
2012	42.0%	16.1%	38.7%	3.3%
2014	41.1%	18.8%	36.6%	3.4%
2016	38.5%	20.6%	37.3%	3.6%
2018	37.9%	21.0%	37.3%	3.8%
2021	35.1%	23.0%	37.8%	4.1%

Source: ABS, *Employee Earnings and Hours, May 2000-2021*, published data.

Chart 1: Share of employees by method of setting pay, 2000-2021



Source: ABS, *Employee Earnings and Hours, May 2000-2021*, published data. OMIEs are owner managers of incorporated enterprises.

Agreement making has declined significantly in key industries.

Between September 2016 and March 2022, the number of current agreements have fallen by:

- 75 per cent in Accommodation and food services (from 419 agreements to 105)
- 34 per cent in Education and training (from 607 agreements to 402)
- 45 per cent in Other services (from 370 agreements to 202)
 - Other services includes a broad range of personal services such as repair and maintenance, hair dressers and beauticians.

Bargaining coverage has also declined in these industries. Between September 2016 and March 2022, the number of employees covered by current agreements has fallen by:

- 62 per cent in Accommodation and food services (from 143,900 employees to 54,900)
- 58 per cent in Education and training (from 397,700 employees to 166,800)
- 58 per cent in Other services (from 42,700 employees to 17,800)

Small businesses are moving away from enterprise agreements.

In 2014, 5.7 per cent of small business employees were covered by an enterprise agreement, almost double the current rate of 3 per cent (2021).

This is supported by data from the Department of Employment and Workplace Relations which shows that there were 107,533 employees covered by a current agreement for small business as at 31 March 2010. This number has since declined by 57.3 per cent to only 45,962 as at 31 March 2022.

Employees whose pay is set by an enterprise agreement earn 71 per cent more than employees on awards, and higher wages outcomes overall

Employees who have their pay set by an enterprise agreement have average weekly earnings of \$1,450.20 which is 71 per cent higher than award-reliant employees (\$849.20).

Table 2: Average weekly earnings for employees who have their pay set by an enterprise agreement or an award, May 2021

	Enterprise agreement	Award	% difference
Average weekly total cash earnings	\$1,450.20	\$849.20	70.8%

Source: ABS, *Employee Earnings and Hours, May 2021*.

Over the past decade, enterprise agreements have delivered higher wages growth than overall wages.

Table 3: Wages growth, 2010-2022

	Wage Price Index (%)	Average annualised wage increase in enterprise agreements (%)
2010	3.1	3.9
2011	3.8	4.0
2012	3.8	3.6
2013	2.8	3.3
2014	2.6	3.4
2015	2.3	3.1
2016	2.1	2.9
2017	1.9	2.6
2018	2.1	2.6
2019	2.3	2.7
2020	1.8	2.8
2021	1.7	2.4
2022*	2.4	2.6

Sources: ABS, *Wage Price Index, June 2022*, and Department of Employment and Workplace Relations, *Trends in Federal Enterprise Bargaining*, various reports. Figures are for the June quarter for each year. *2022 figure is for the March quarter 2022.

Employees who have their pay set by an enterprise agreement are more likely to be women, permanent, and full-time however outcomes vary

- The majority (56.6 per cent) of employees who have their pay set by an enterprise agreement are female (compared to 50.4 per cent of all employees).
- 84.0 per cent of employees who have their pay set by an enterprise agreement are permanent employees (compared to 78.9 per cent of all employees).
- 55.8 per cent of employees who have their pay set by an enterprise agreement are employed full-time (compared to 59.8 per cent of all employees).
- Younger workers (aged 15-34) are less likely to be paid by an enterprise agreement.
 - 29.0 per cent of employees aged under 24 have their pay set by an enterprise agreement, compared with 35.1 per cent for all ages.

Bargained wage outcomes in Accommodation and food services and Retail trade falling significantly behind male-dominated industries such as Mining and Construction.

- Average hourly earnings on enterprise agreements in Accommodation and food services (\$24.80) and Retail trade (\$27.70) remain significantly below earnings for male-dominated industries such as Mining (\$61.20) and Construction (\$51.40).
- Accommodation and food services and Retail trade are also majority-female and employ a disproportionately large cohort of younger workers.

Table 1: Average hourly earnings by industry, non-managerial employees

Industry	Enterprise Agreements
Mining	61.20
Construction	51.40
Public administration and safety	49.00
Health care and social assistance	47.50
Transport, postal and warehousing	44.90
Rental, hiring and real estate services	42.70
Manufacturing	42.60
Administrative and support services	41.70
Other services	<u>38.40</u>
Arts and recreation services	<u>36.30</u>
Retail trade	<u>27.70</u>
Accommodation and food services	<u>24.80</u>
All industries	45.80

Source: ABS, Employee Earnings and Hours, May 2021, non-managerial employees, total cash earnings. Excludes industries with 10 per cent or less award-reliance.

Bargained wage outcomes for employees in small businesses fall behind large businesses

- Average hourly earnings on enterprise agreements for employees in small businesses was \$43.50, 8.3 per cent lower than large businesses at \$47.10.

Table 4: Average hourly earnings for enterprise agreements, by business size.

Business size	Hourly earnings
Small (1-19)	\$43.50
Medium (20-99)	\$40.00
Large (100 and over)	\$47.10
Total	\$46.50

Source: ABS, Employee Earnings and Hours, May 2021, Tablebuilder

Table 4: Employees who have their pay set by an enterprise agreement by business size, 2014 and 2021

	Incidence of employees who have their pay set by an enterprise agreement	
	2014	2021
Small businesses (under 20 employees)	5.7%	3.0%
Large businesses (100 employees and over)	65.6%	58.0%
All businesses	42.6%	36.6%

Source: ABS, *Employee Earnings and Hours, May 2021*; ABS, *Employee Earnings and Hours, May 2014*.

Note: Data excludes Owner Managers of Incorporated Enterprises and so is not comparable to the overall incidence of enterprise agreement coverage in Table 1.



Agreement Making

Overview

- Business, Unions and Government committed to work proactively together to revitalise a culture of creativity, productivity, good faith negotiation and genuine agreement in Australian workplaces.

Talking Points

1. The enterprise bargaining system is no longer working for employers and employees. Only 14 per cent of employees are covered by an in-term enterprise agreement.
2. Enterprise bargaining should provide improved wages and productivity, but the system is not keeping up with the changing nature of the Australian economy.
3. It has been very encouraging to see the ACTU and employer groups working together to put forward ideas on how we might improve the bargaining system. Not only to get more workers and businesses onto agreements – but focusing on how we bring parties together to negotiate agreements that benefit them.
4. We will work with stakeholders to nut out the details of these positive outcomes.

Facts and Figures

- The Low-Paid Bargaining provisions of the Fair Work Act have rarely been used. Since 2009, there have only been four applications for a Low-Paid Bargaining authorisation and only one of these authorisations was granted. The one authorisation did not result in the making of a multi-enterprise agreement, although a number of the employers covered by the authorisation subsequently made single-enterprise agreements with their workers.
- In 2020-21, there were only 18 applications for approval of a multi-enterprise agreement.
- Since 2009, of the 75 applications for ministerial declarations under s 247, that employers may bargain together for a proposed enterprise agreement, the Minister has granted 69 and made the relevant declarations and has declined 6 and not made any declarations.

Questions and Answers

Why is multi-employer bargaining needed?

- Bargaining is not delivering the desired outcomes of higher wages and higher productivity for employees and employers.
- There is also broad agreement that the low-paid multi-employer stream of the Fair Work Act has not worked, and that low-paid workers, including childcare, aged care and cleaners, are missing out on the benefits of bargaining.
- We will ensure workers and businesses have flexible options for reaching agreements, including removing unnecessary limitations on access to single and multi-employer agreements.

What benefits are there for small business from bargaining?

- The Government welcomes the landmark agreement between COSBOA and the ACTU on bargaining.
- Small businesses have previously not been able to access bargaining due to the time and complexity involved with making an agreement.
- Improving enterprise bargaining and ensuring greater access for employers and employees to negotiate fair pay and conditions minimum conditions can drive productivity improvements and innovation at the firm level. This creates cooperative workplace relationships which benefits employees, through higher wages and better conditions, and businesses, through productivity improvements and profits.
- Re-invigorating enterprise bargaining drive outcomes through productivity improvements which are an important driver of real wages and higher living standards, and are unlikely to create additional inflationary pressures.

What benefits are there for employees from multi-employer bargaining?

- Improving enterprise bargaining and ensuring greater access for employers and employees to negotiate fair pay and conditions minimum conditions can drive productivity improvements and innovation at the firm level. This creates cooperative workplace relationships which benefits employees, through higher wages and better conditions.

What will the Government do with the Better Off Overall Test?

- The Better Off Overall Test will continue to apply to all single and multi-employer agreements. There is increasing consensus between employers and unions that the Better Off Overall Test has become too complex and needs to be simplified.

- The Government will remove unnecessary complexity, making sure the Better Off Overall Test is simple, flexible and fair.

Will loosening the rules around multi-employer bargaining lead to sector wide strikes?

- It is not the intention of the proposal to provide for sector-wide or industry-wide strikes, instead its purpose to increase bargaining power for low-paid workers and allow more workers and businesses access to the benefits of enterprise bargaining.

What is the difference between multi-employer and pattern bargaining?

- Under the Fair Work Act, two or more employers can agree to bargain together for a multi-enterprise agreement. Multi-employer bargaining involves several businesses bargaining together with relevant unions to develop an agreement that meets the needs of the employers and employees. However, industrial action and good faith bargaining provisions of the Fair Work Act do not apply to multi-employer bargaining.
- The Fair Work Act also permits closely related employers to bargain together for a single-enterprise agreement and there is also a low-paid bargaining stream that can be accessed in limited circumstances.
- By contrast, pattern bargaining usually involves a union seeking the same terms to be included in agreements with multiple employers, without taking into account the employers' individual circumstances, meaning there is very little or no negotiation involved.
- Employee protected industrial action cannot be organised or taken where a bargaining representative is engaging in pattern bargaining in relation to the agreement.